

THE  
T R I A L

O F

Mrs. *M A R Y H E A T H*,

A

WITNESS examined on a TRIAL in the Court of  
*Exchequer* in *Michaelmas* Term, 1743.

IN A CAUSE WHEREIN

CAMPBELL CRAIG, Lessee of  
*JAMES ANNESLEY*, Esq;  
Was PLAINTIFF,

Against the RIGHT HONOURABLE

*Richard*, Earl of *ANGLESEY*,  
DEFENDANT,

F O R

P E R J U R Y.

At the Bar of the Court of KING'S-BENCH on *Friday*  
the 8th Day of *February*, 1744.

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Together with an

A P P E N D I X

Containing the Proceedings in the said Court on the Indictment previous to  
the Trial.

Published by Permission of the Right Hon. the Lord Chief Justice *Marlay*, Mr.  
Justice *Ward*, and Mr. Justice *Blennerbasset*.

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T H E  
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O F  
Mrs. *M A R Y H E A T H*  
F O R  
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Council for the Profecutor.

*Warden Flood*, Esq; his Majesty's Solicitor General.  
*Robert Marshall*, Esq; second Serjeant at Law.  
*Philip Tisdall*, Esq; third Serjeant at Law.  
*Philip Walsh*, Esq; one of his Majesty's Council at Law.  
*William Harward*, Esq;  
*Josepb Robins*, Esq;  
*James Mac Manus*, Esq;  
*Cornelius O Callaghan*, Esq;  
*Ambrose Harding*, Esq;  
*John Morton*, Esq;  
*Thomas Fitz-Gerald*, Esq;

Council for the Traverfer.

*Eaton Stannard*, Esq; one of his Majesty's Council at Law, and Recorder of the City of *Dublin*.  
*John Smith*, Esq; one of his Majesty's Council at Law.  
*Anthony Marlay*, Esq; one of his Majesty's Council at Law.  
*Peter Daly*, Esq;  
*Simon Bradstreet*, Esq;  
*Thomas Le Hunte*, Esq;  
*Thomas Spring*, Esq;  
*Thomas Morgan*, Esq;  
*Richard Malone*, Esq;  
*Edmond Malone*, Esq;  
*Edward Lee*, Esq;  
*James Maddox*, Esq;  
*Thomas Cooley*, Esq;  
*Robert Hamilton*, Esq;  
*Robert Ford*, Esq;

*Friday, February the 8th 1744.*

**T**H E Court being sat before nine o'Clock, the Jury were call'd over, when *Fourteen* appearing and no Challenges being made, the following *Twelve* were sworn to try the Issue of Traverfe.

*Sir Samuel Cook*, Baronet.  
*John Rochfort*, Esq;  
*Eyre Evans*, Esq;  
*Nicholas Archdale*, Esq;  
*David Chaigneau*, Esq;  
*Quaile Somerville*, Esq;  
*Edward Ford*, Esq;  
*Mark Synnot*, Esq;  
*Thomas Baker*, Esq;  
*George Evans*, Esq;  
*Narcissus Charles Proby*, Esq;  
*Charles Burton*, Esq;

The Indictment, on which this Trial was had, is as follows, *viz.*

*The King against* { **T**H E Jurors for our  
*Mary Heath,* Lord the King, upon  
*County of Dublin,* their Oaths say and Present,  
*to Wit.* that in a certain Bill of a Plea of Trespass and Ejectment of a Farm depending as of the Term of the Holy Trinity, in the Sixteenth and Seventeenth Years of the Reign of our said Lord, the now King *George the Second*, of *Great Britain*, and so forth; and in the Year of our Lord, one thousand seven hundred and forty three, in our said Lord the King's Court of *Exchequer* in *Ireland*, then being at the King's Courts in the said County of *Dublin*, before the Barons of our said Lord the King, of the said Court, and brought into the said Court, and prosecuted by *Campbell Craig*, Gent. Debtor of the said Lord the King Plaintiff, against the Right Honourable *Richard Earl of Anglesey*, Defendant; who was present then in the said Court, by his Attorney, *Thomas Burroughs*, for thirty Messuages, thirty Tofts, fifty Cottages,  
two



two Mills, fifty Gardens, eight hundred Acres of Arable Land, three hundred Acres of Meadow, six hundred Acres of Pasture, fifty Acres of Furze and heathy Ground, fifty Acres of moory Ground, with the Appurtenances, in *Great Stramine*, otherwise *Stameen*, *Little Stramine*, otherwise *Stameen*, *Little Donacarney*, *Shallon*, *Killcarvan*, otherwise *Killsharvan*, *Cruffey*, *Annagor*, otherwise *Anna-ger* and *Little Gaffney*, situate, lying and being in the County of *Meath*; all which said Premises were formerly the Estate of the Right Honourable *James Earl of Anglesey*, deceased; and lately the Estate of the Right Honourable *Arthur Earl of Anglesey*, also deceased; and which had been demised to him, the said *Campbell Craig*, by *James Annesley*, Esq; and had been also demised to him the said *Campbell Craig*, by the Right Honourable *James Earl of Anglesey*, and had been also demised to him, the said *Campbell Craig*, by the honourable *James Annesley*, only Son and Heir of *Arthur* late Baron *Altham* of *Altham*, deceased; otherwise the Right Honourable *James Baron Altham* of *Altham*, on the first Day of *May*, one thousand seven hundred and forty two, at *Trim* in the County of *Meath* aforesaid, for the several Terms of twenty one Years, to commence from thence in Manner and Form as in and by the Declaration of the said *Campbell Craig*, in the said Bill of the said Plea of Trespass and Ejectment of a Farm, is mentioned and set forth; in and to which said Bill of a Plea of Trespass and Ejectment of a Farm he the said *Richard Earl of Anglesey*, by his said Attorney, took Defence in due form of Law, and for Plea thereto, said that he was not Guilty of the Trespass and Ejectment aforesaid, in Manner and Form, as the said *Campbell Craig* complain'd, and of that he put himself on the Country, and the said *Campbell Craig* likewise, and Issue being so join'd in said Plea of Trespass and Ejectment, in due Form of Law by and between the said Parties, it was afterwards so proceeded upon thereon that the said Issue afterwards, to Wit, on the Second Friday after the Morrow of all Souls, in the Term of *St. Michael*, the Arch Angel then next, that is to say, on the 11th Day of *November*, in the Seventeenth Year of the Reign of our said Lord, the now King, in the Court of *Exchequer* aforesaid, before the said Barons of the said Court, at the King's Court aforesaid, in the County of *Dublin* aforesaid was tryed by a certain Jury of the Country, for that Purpose, in due form of Law, then and there Elected, Tryed and Sworn in said Court, to Try the said Issue; and on the said Trial, it was then and there admitted, as well by, for and on behalf of the said *Campbell Craig*, as by, for and on behalf of the said *Richard*, Earl of *Anglesey* that the said Lands and Premises, mentioned in the said Plea of Trespass and Ejectment and Declaration of the said *Campbell Craig*, were the Estate of Inheritance of *Arthur* Lord Baron *Altham* of *Altham*, late deceased and that he died seized of the said Lands and Premises; and the said *Campbell Craig*, then and there, upon said Trial, produced Witnesses on his Part, who being then and there duly Sworn on God's Holy Evangelists, by the said Barons of the said Court of *Exchequer*, to Testify the Truth, the whole Truth, and nothing but the Truth, in the said Plea of Trespass and Ejectment so depending, the said Barons having sufficient Power and Authority to administer the said Oath to them on that behalf,

gave in Evidence, and then and there Swore, and deposed upon their Oaths aforesaid, to the Jurors of the Jury aforesaid, before the Barons aforesaid, that *James Annesley* aforesaid, the Lessor of the said Plaintiff, *Campbell Craig*, was the only Son and Heir of the said *Arthur* late Lord Baron *Altham* of *Altham*, by his Wife, *Mary* the late Lady *Altham*; and that the said *James Annesley* was born and christened at *Dunmaine*, in the County of *Wexford*, in the Kingdom of *Ireland*. And the said now Jurors so Sworn for our said Lord the King, upon their Oaths, further say and Present, that *Mary Heath* of the City of *Dublin*, in the County of the said City, Widow, upon the Trial aforesaid, in the Court of *Exchequer* aforesaid, before the Barons aforesaid, at the King's Court aforesaid, in the County of *Dublin* aforesaid, being then and there produced as a Witness, by and on behalf of the said *Richard Earl of Anglesey* on the said Trial of the said Issue, the said *Mary Heath* was then and there Sworn, upon God's Holy Evangelists in due Form of Law, by the said Barons of the said Court of *Exchequer*, to Testify the Truth, the whole Truth, and nothing but the Truth, in the said Plea of Trespass and Ejectment, the said Barons of the said Court of *Exchequer* having sufficient Power and Authority to Administer the said Oath to the said *Mary Heath* in that behalf, and the said *Mary Heath* being then and there so Sworn, then and there falsely, voluntarily, knowingly, wilfully, maliciously, corruptly and illicitly Swore and deposed upon her Oath aforesaid, to the said Barons and to the Jurors of the said Jury, who then and there were in due form of Law elected, tried, and sworn as aforesaid, to try the said Issue as aforesaid, that *Lady Altham*, that is to say, the aforesaid *Mary Lady Altham*, who was Wife of the said *Arthur*, late Lord Baron *Altham* of *Altham*, never was with Child, while she the said *Mary Heath* lived with the said *Mary Lady Altham*. And,

Further, the said *Mary Heath* then and there, before the said Barons of the said Court, gave in Evidence and swore upon her Oath aforesaid, to the said Barons and to the Jurors of the said Jury that the said *Mary Lady Altham* never had a Child at *Dunmaine*, that is to say, *Dunmaine* aforesaid, in the said County of *Wexford* in the Kingdom of *Ireland*. And,

Further, the said *Mary Heath* then and there before the said Barons of the said Court gave in Evidence and swore upon her Oath aforesaid, to the said Barons and to the Jurors of the said Jury, that there never was a Child as the Child of that Family, that is to say, of the said *Arthur*, late Lord Baron *Altham* of *Altham*, and the said *Mary*, Lady *Altham* his Wife, either christen'd or living at *Dunmaine House*, that is to say, the aforesaid *Dunmaine House*, in the said County of *Wexford*, while she, that is to say, the said *Mary Heath* was at *Dunmaine* aforesaid. And,

Further, the said *Mary Heath* then and there, before the said Barons of the said Court, gave in Evidence and swore upon her Oath aforesaid to the said Barons and to the said Jurors of the said Jury, that she, that is to say, the said *Mary Heath* never saw a Child in the Hands or Care of *Joan Laffan*, while she, that is to say, the said *Joan Laffan* was at *Dunmaine*, House aforesaid. And,

Further, the said *Mary Heath* then and there, before the said Barons of the said Court, gave in Evidence and swore upon her Oath aforesaid, to the



the said Barons, and to the Jurors of said Jury, that the said *Mary Lady Altham* did not miscarry of a Child at *Dunmaine* aforesaid. Whereas really and in fact, the said *Mary* late Lady *Altham*, who was Wife of the said *Arthur* late Lord Baron *Altham* of *Altham*, was with Child while she the said *Mary Heath* lived with the said *Mary Lady Altham*. And whereas also really and in Fact, the said *Mary Lady Altham* had a Child at *Dunmaine*, that is to say, *Dunmaine* aforesaid, in the said County of *Wexford* in the Kingdom of *Ireland*: And whereas really and in Fact, there was a Child, as the Child of that Family, that is to say, of the said *Arthur* late Lord Baron *Altham* of *Altham*, and the said *Mary Lady Altham* his wife, christen'd and living at *Dunmaine* House aforesaid, in the said County of *Wexford*, while she the said *Mary Heath* was at *Dunmaine* House aforesaid. And whereas also really and in Fact, the said *Mary Heath* did see a Child in the Hands and Care of *Joan Laffan*, while she, that is to say, the said *Joan Laffan* was at *Dunmaine* House aforesaid. And whereas also really and in Fact, the said *Mary Lady Altham* miscarried of a Child at *Dunmaine* aforesaid. And so the now Jurors sworn for our Lord the King as aforesaid, upon their said Oaths say, and Present that the said *Mary Heath* on the said Trial of the issue aforesaid, upon her Oath aforesaid, before the Barons aforesaid and Jurors of the said Jury, elected, tried and sworn to try the said Issue between the Parties aforesaid, in the said Court of *Exchequer* at the King's Courts aforesaid, in the County of *Dublin* aforesaid, in Manner and Form aforesaid, did falsly, voluntarily, knowingly, willfully, maliciously, corruptly and illicitly, commit wilful, voluntary, malicious and corrupt Perjury, in great contempt of the said now King and of his Laws, and contrary to his Majesty's Crown and Dignity.

Court.] You, Gentlemen of Council for the Traverser, offer'd Yesterday that Mr. *Goofrey's* Examination should be read in Evidence against the Traverser, and that you would wave her right to cross examine him; you must admit it now.

Mr. Daly.] Admitted.

Court.] [On Motion for separating the Witnesses.] The Witnesses are to be separated, and not to come into Court 'till they are sent for; No body is to be admitted to them, but each to have a Guard on the other's Witnesses.

Court.] Gentlemen, for the Ease of the Jury, and Necessity of finishing the Trial, I must tell you, that we will not, on either Side, have a multiplicity of Witnesses; the meaning of the Law is, that the Trial should be had in one Day, and we won't sit here to hear any Evidence that is immaterial. Whoever protracts a Trial, is by the Law supposed to dare not to stand it.

Mr. Recorder.] My Lord, we shall endeavour to make the Trial as short as we can, but there are many Cases that depend upon Circumstances, which must be made appear, and wherever your Lordships find that it is a necessary Defence, you cannot think it is too long.

Mr. Justice Ward.] It is in the Power of the Gentlemen of the Bar to shorten this Trial, and I hope you'll observe the Rule laid down Yesterday, for one Gentleman to confine himself to each Witness.

Lord Chief Justice.] I make no doubt of laying that down as a Rule.

Mr. Solicitor General.] Our Resolution is to observe it; and we will shorten the Trial, in all respects, as much as we can.

The Lists of the Witnesses are given in to the Court, that they may be separated, and the Clerk of the Crown numbring them, there were 80 on the Side of the Traverser, and 86 on the Side of the Prosecutor.

Court.] Do you imagine, that the Law supposed that any body should produce fourscore Witnesses? Two Witnesses are enough to prove any Fact, if it be a good one, for by the Mouth of two Witnesses shall a thing be established; and 200 won't prove any fact, if it be a bad one.

The Officer of the Court charged the Jury with the Indictment in the usual Form, and was directed by the Court to take out the five Points or Assignments of Perjury and give them to the Jury; which was done.

Mr. Sol. Gen.] Stated the Case for the Prosecutor.

Court.] The first Assignment of Perjury is, that Lady *Altham* never was with Child while the Traverser liv'd with her.

Mr. Serjeant. Marshal.] My Lord, we shall first produce the Record. Upon the Trial in the Court of *Exchequer* the single Point was, whether the Lessor of the Plaintiff was the Son of Lady *Altham*, Wife of *Arthur* late Lord *Altham*, and there was a Verdict found for him.

Mr. Daly.] We admit the Record, and we admit *Mary Heath* was produced as a Witness upon that Trial, and that she swore that Lady *Altham* had not a Child, whilst she the Traverser lived with her.

Mr. Serj. Marshal.] Do you admit the several Assignments of Perjury?

Mr. Daly.] We do.

Mr. Serj. Marshal.] My Lord, the next thing that we shall lay before your Lordship is a Person to prove that after Lady *Altham's* Arrival in this Kingdom in the Year 1713, she came to the House of Mr. *Briscoe* in *Bride-street* in this City, that after staying there some short time, she removed to the House of one Mrs. *Vice* in *Essex-street*, that from thence she went to the late Lord *Altham's* House at *Dunmaine* in the County of *Wexford*; and it will appear to your Lordship and to the Gentlemen of the Jury, that at the late Lord *Altham's* House at *Dunmaine* she was with Child and did miscarry of a Child.

Mr. Daly.] We admit, if you please, that Mrs. *Heath* came over with my Lady *Altham* in October 1713, and lived with her to her death in the year 1729.

I. Mrs. HENRIETTA COLE.

Mr. Serjeant Marshall.] Mrs. *Cole*, did you know *Arthur*, late Lord *Altham*?

Mrs. *Cole*.] Yes, Sir,

Q. Did you know *Mary Lady Altham*, his Lady.

A. Yes.

Q. At what Time did you first become acquainted with her?

A. In the year 1713.

B

Q. Do



Q. Do you know any Place in the County of *Wexford*, where they lived?

A. Yes, at *Dunmaine*.

Q. Were you at any Time at that House, and when?

A. I was, Sir.

Q. Can you recollect about what Time, Madam?

A. I believe it might be about *February* that my Mother and I went there.

Q. In what Year?

A. In the year 1713.

Q. Do you know of any remarkable Accident that happen'd, while your Mother and you were there?

A. Yes, I do.

Q. Give an Account to the Court and the Jury, what that Accident was?

A. My Lord was in a very great Passion one Day at some *Sawcers* being brought to the Table; his Passion was very great, and he had order'd them never to come upon the Table on any Score, for they were not fit for modest People to see, and all on a sudden he threw them between my Lady and me, and put my Lady into a violent Fright.

Court.] What were they?

A. *China Sawcers*, my Lord.

Mr. Serj. Marshal.] Pray, Madam, what happen'd upon that Occasion?

A. My Lady fell a Trembling; into a violent fit of Trembling and Tears.

Q. Was there any, and what Consequence from this Accident?

A. My Lady was exceedingly ill in the Night.

Mr. Edm. Malone.] My Lord, before she goes on any further, I hope she'll say what she knows of her own knowledge, and nothing more.

Mr. Serj. Marshal.] Whatever may be an Inducement to the material Point is necessary for her to say.

Court.] Go on.

Mrs. Cole.] I say it from Mrs. Heath the Person coming to my Mother, and I in Bed with my Mother.

Court.] Then you heard Mrs. Heath tell your Mother my Lady was very ill?

A. I heard her, my Lord.

Mr. Serj. Marshal.] Did any and what Consequence happen from that Illness?

A. My Mother told me in the Morning.—

Court.] Stop you there. You must only tell what you know yourself did happen.

Mr. Serj. Marshal.] Well, tell what did happen of your own Knowledge.

A. My Lady Miscarried, as I understand.

Q. From whom were you informed that my Lady was so Sick?

A. From Mrs. Heath.

Q. Where was you at that Time that you were informed of it?

A. In Bed with my Mother.

Q. What did she say to your Mother then?

A. She came to the Door, and said, for God's Sake, Madam, get up, my Lady's exceedingly ill, make haste and get up.

Q. Pray, Madam, do you know what was the Consequence of that Illness?

A. My Lady miscarried, as I take it.

Q. Why do you apprehend that she miscarried?

A. I saw an Abortion in the Basin the next day.

Q. Where did you see it, Madam?

A. In my Lady's Closet.

Q. Who shew'd it to you?

A. I believe, my Mother; as to that particular I can't be positive.

Q. Where was Mrs. Heath at that time?

A. Indeed, I can't be positive as to that; but she was ever at my Lady's Elbow, whenever she was ill.

Q. How was she in that Family, a Servant or Relation?

A. She was a Servant, I think, I can't tell whether she was a Relation or not.

Q. Was she my Lady's Woman?

A. She was deemed as such.

Q. Had you any and what Discourse with the Traverser concerning my Lady's Sickness at that Time?

A. Indeed, I can't charge my Memory with having any; we might have had Discourse about it, but I can't charge my Memory.

Q. How long was Lady Altham confined afterwards to her Chamber?

A. That's a Question I can't exactly tell you.

Q. Was she confined to her Chamber after that Accident of the Sawcers?

A. She was confined to her Chamber, my Lord wanted her down to Supper that Night, and sent for her several Times, and my Mother went up for her, and she was too ill to come down.

Mr. Recorder.] What Night?

A. The Night of the Day that the *Sawcers* were thrown.

Mr. Serj. Marshal.] You say, Madam, that my Lady was confined, pray how long was she confined?

A. Whether it might be a Fortnight or Three Weeks, I can't positively say, but she was confined to her Chamber.

Q. In what manner was she confined, in Bed, or up, or how?

A. She kept her Bed for some Time, and sat up in her Chamber at other Times.

Q. Did you give an Account of this Affair to any Body whatsoever since the time this Accident happen'd?

A. I have spoke of it frequently, and my Mother has spoke of it.

Q. To whom, Madam, can you recollect?

A. Indeed, I believe there's Mr. Monck's Family, that I believe may remember it perfectly well; there is in *Gorey* several that may remember it from my speaking of it before ever this Affair happen'd.

Q. Where was Mrs. Heath during the time that Lady Altham was confined in her Chamber?

Mr. Recorder.] Oh! she said already, that she was about her.

Q. Pray, Madam, did Mrs. Heath know any thing of that Matter, or not?

A. She was in the House, she was immediately at her Elbow, she was the Person that came to my Mother.

Court.] Did you go into my Lady's Room when she called your Mother?

A. I did not, my Lord, I lay in my Bed.

Mr. Serj. Marshal.] But she desired your Mother to make haste, for that my Lady was exceedingly ill?

A. She did, Sir.

Jury.] What time of the Night was it that Mary Heath came to your Apartment?

A. I really can't recollect.

Q. When



Q. When was it that you went into the Closet, and saw this Abortion you mention?

A. The next Morning about 9 or 10 o'Clock, I believe; to be certain I can't.

Q. Do you take upon you to say that at the time when your Mother shew'd you the Abortion, that the Traverfer was in the Closet?

A. I cannot say, she might or might not.

Q. Did Mrs. Heath constantly attend Lady Altham?

A. She did constantly.

Q. Did you ever see her attend her?

A. I have seen her, and was often sent to call her.

Mr. Serj. Marshal.] When she call'd your Mother up, did she express any and what Apprehension concerning my Lady's Illness?

A. I cannot say that she express'd any at all, only that she said, For God's Sake, Madam, get up, my Lady is exceedingly ill.

Q. Do you know how it was understood in that Family, what the Occasion of that Sickness was?

Court.] Supposition or Hearsay is nothing.

CROSS EXAMINATION.

Mr. Recorder.] Pray, Madam, do you remember the time that my Lady Altham came to Ireland, the Month I mean?

Mrs. Cole.] About October.

Q. Where did she Lodge when she came to Dublin? Did not she come to your Father's House?

A. She came to my Father's House.

Q. How long did she continue in your Father's House, before Lord Altham came?

A. Whether a Month or Six Weeks in Town before he came to Town, I cannot tell.

Q. Pray, Madam, where was it that my Lord and she first met?

A. At my Father's House.

Q. Can you recollect the Month that was in?

A. I cannot be very certain; but I think that it must have been in November, the latter end of November, or in the beginning of December, which I cannot tell.

Q. Do you fix it in November?

A. I cannot fix it more than what I say.

Q. I ask you now, Madam, did my Lord and Lady Altham lodge at your House, 'till they went to Dunmaine?

A. I don't believe they did.

Q. I ask you upon your Oath, did they lodge in your Father's House 'till they left Town?

A. I think they did not.

Q. It is a material Question, and you must answer it; I ask you, did they or did they not? for you that remember things so well, must know whether they did or no. Did not they lie there the Night they were reconciled?

A. They did, and some Nights after.

Q. Did not they, 'till they left Town?

A. No, Sir, I don't believe they did.

Q. Can't you say whether they did or not?

A. I cannot say positively.

Q. Can you say they did not lodge there while they staid in Town? You that know they

were reconciled by your Father's Means, can't you recollect whether they left your Father's House, before they left Town?

A. I don't think that they staid there while they lived in Town.

Q. You don't think, but can you say whether they did or not?

A. I tell you, Sir, my Father was uneasy at their being in his House; my Lord was a Man that had a great many Freaks, and my Father prevailed on him to take Lodgings.

Q. And did he take Lodgings?

A. I think I may say it, I'm not certain; but I think I may be positive that they did not Lodge at my Father's House 'till they went to the Country.

Q. Well then, Madam, do you recollect their going away from Town? Did the Coach come to your Father's House to carry them away?

A. I don't remember.

Q. Were they at your Father's House when they went away?

A. I don't believe they were.

Q. Did the Coach come for them?

A. I remember no Coach coming for them. Indeed I don't remember any Equipage.

Q. Now, Madam, you say that your Mother and you went to Dunmaine, what time was it that Lord and Lady Altham left this City?

A. I can't ascertain the time of their going.

Q. You did not go with them?

A. I did not.

Q. I think you said your Mother and you went to Dunmaine in February?

A. I believe it was.

Q. Pray, Madam, when my Lady was at your House, did she hire any Servants to go down with her?

A. I don't remember one.

Q. Don't you remember that she hired one Mrs. Setwright?

A. I remember Mrs. Setwright at Dunmaine, but don't remember my Lady's hiring a Servant in the House.

Q. Were you a Gossip to Mrs. Setwright at Dunmaine?

A. I know she was brought to Bed.

Q. Did you stand to the Child?

A. Indeed I don't remember I did; if I did it is more than I know, or can remember.

Q. Was your Mother Sick while you were at Dunmaine?

A. Not to my Knowledge.

Q. You don't remember that neither?

A. Indeed I don't.

Q. Was she so ill as to take Vomits there?

A. I don't remember any Vomit she took, nor I don't remember her to have taken two Vomits in all her Life.

Q. Did not you lie with your Mother while at Dunmaine?

A. Part of the Time I was Bed-fellow to Mrs. Heath, and part to my Mother; for my Father was there for a while, and as soon as he went, I lay with my Mother.

Q. Pray, Madam, did your Father go with you there?

A. No, he did not.

Q. Was your Father in the House when these Sawcers were thrown down?

A. He was not.

Q. Did



Q. Did that happen before or after he was there?

A. It was after he was there.

Q. How long was you there before your Father came?

A. I cannot tell.

Q. How long, a Fortnight?

A. I believe we might; more or less I cannot tell.

Q. Was it the beginning of *February*, or the latter End, that you went down?

A. I believe towards the Beginning; I cannot tell.

Q. I see you can tell nothing but one Point. Was it the beginning, the middle, or the latter End of *February* that you went there?

A. I cannot say; but I believe it was in *February*.

Q. Well, but I ask you now, what Time was it that this Accident of the *Sawcers* happen'd?

A. I cannot tell whether in *March* or *April*.

Q. Which Month was it?

A. If I could remember the Day, the Hour, or the Minute, I would tell you.

Q. How long was it before your Father came?

A. I think it was after.

Q. How long did he stay there?

A. He stayed but a very short Time.

Q. Can you say how long he stayed?

A. Whether a *Week* or *ten Days* I cannot say.

Q. How long after he went away did it happen?

A. I cannot tell how long.

Q. Were not you examined in this Cause once before, can you recollect what Time you fixed then for your going to *Dunmaine*?

A. I cannot tell.

Q. Did not you say it was in *March* or *April*?

A. I don't know whether I did or not.

Court.] Did you say in *February* or *March* then, or when?

A. I cannot tell, my Lord, whether I did or not.

Mr. Recorder.] When you were examined on the Trial in the *Exchequer*, did you say, you went in *February*, *March*, or *April*?

A. I said that my Lady miscarried in *March* or *April*.

Q. Did not you swear that it was in *March* or *April* that you went down?

A. Not to my Knowledge.

Q. Why, had not you as good a Knowledge then as now?

A. I might, if I said it I mistook.

Q. Pray, Madam, I'd ask you another Question; you say, you mistook if you said so; upon your Oath, how long after you went down was it that this Accident happen'd?

A. It was some time after; it either was in *March* or *April*, but I believe rather it was in *April*.

Court.] You do remember you were examined in the Court of *Exchequer*, by Virtue of your Oath, did you swear then, it was in the Beginning of *Spring* that you went to *Dunmaine*?

A. I do say, that I believe I said that it was the *Spring*.

Q. Do you call the Month of *February*, *Spring*?

A. I might mistake in that.

Mr. Mac Manus.] My Lord, I apprehend it is an improper Question to ask a Woman now, what she said another Day; to examine her at this Time to what she swore then.

Court.] I ask your Pardon, Mr. Mac Manus, it is very proper.

Mr. Recorder.] Recollect the Time, how soon after you got down did this Accident happen, for it is a most remarkable one, in a Fortnight, or three Weeks, or a Month, or how long?

A. It was more than a Fortnight, three Weeks or a Month, as I take it, it was about *two Months* after we got down.

Q. Can you recollect the Month?

A. It might be something more than two Months, I can't be positive.

Q. And might not it be something less?

A. No, I don't think it was.

Q. Can you recollect the Company there at the Time of this Accident?

A. I have endeavoured my Recollection as much as I could. There were four Gentlemen at the Table besides my Lord, my Lady, my Mother and I; but to tell one of their Names I cannot, and whether dead or alive, I don't know.

Court.] Was your Father there?

A. No, he was not at the Table.

Mr. Recorder.] Was there any Quarrel between my Lord and Lady at this Time?

A. There was none that I know of, for it was the *Sawcers* that occasioned the Quarrel.

Q. How were the Company placed at the Table; I suppose my Lord sat at the lower end of the Table?

A. My Lady sat at the upper End, my Mother sat by her, and I on the other Side, and I do believe, as well as my Recollection can serve, I believe my Lord sat the very next Person to me, I am not positive, but I think he did.

Q. Were these four Gentlemen that were at Dinner, People of any Fashion?

A. I suppose some were, and some were not.

Q. Can you be positive whether my Lord sat next you?

A. Upon Recollection, I think he did sit next me.

Court.] Where did my Lady sit?

A. At the upper End of the Table, and the Chimney was behind me.

Mr. Recorder.] Did you sit the next to her?

A. I sat the very next to her.

Q. On which Hand?

A. The Right Hand.

Q. Was your Mother there?

A. My Mother was there.

Q. And did you sit on the Right Hand of my Lady?

A. I can give you a very good Reason for it.

Q. Tell it.

A. It is, that my Mother had got some cold and her Eyes were weak, and she did not care to face the Light.

Q. What Room was it you dined in? Describe *Dunmaine*.

A. I have been at *Dunmaine* lately; but however, the Room, as you come in at the Street-door, was on the Right Hand, there was a Bed in the other Room opposite to it.

Q. What was the Use of those *Sawcers*?

A. There was something upon every one of them.

Q. How were they brought to the Table?

A. They were brought in on a Dish, a Desert, and those *Sawcers* were intermix'd with other Things.

Q. What had they upon them?

A. I believe there were Sweet-meats upon them.

Q. Were



Q. Were you daubed with them when my Lord threw them by you?

A. He took them in this Manner, and emptied them all, and as he emptied them he threw them between my Lady and me, he would empty a Sawcer and throw it, and so one after another till he had thrown them all.

Q. Where did he empty them into?

A. In the Dish that they were standing on.

Q. Did he know that my Lady was with Child?

A. I believe he did; and I'm pretty sure he did.

Q. And yet he threw those Sawcers directly between you?

A. Sir, my Lord was unaccountable in his Temper.

Court.] Do you say that my Lord knew my Lady was with Child?

A. I do believe he did know it.

Q. What is your Reason for that Belief?

A. I've no Reason only because of the Abortion.

Q. But had you any Reason to believe he knew it before that Time?

A. I do say thus far, that the very first Words that Mrs. Heath said to my Mother—

Court.] You are only to say what you know yourself.

Mrs. Cole.] I heard my Lord say that my Lady was with Child before the Accident.

Mr. Recorder.] Did you hear him say so?

A. I did hear him say so.

Q. And yet he threw them Sawcers in this manner; how did he throw them?

A. My Lady put her Head one way, and I put my Head the other as they were throwing.

Q. Now, Madam, you say you went into the Closet the next Morning, your Mother carried you there?

A. No, she did not.

Q. Who carried you there?

A. I went of myself.

Q. Was your Mother there?

A. She was in the Closet.

Q. And your Mother shewed you this Abortion?

A. She did.

Q. Now, how old were you at that Time?

A. I believe this will shew, (holding a bit of Paper in her Hand) when I was here before I was quite uncertain as to my Age,

Q. You then said you were twelve or thirteen?

A. There is a Fault in that Trial, for I was ask'd my Age, and I could not be certain; I was ask'd why I could not, and I said I could not because there was always —

Q. What did you say your Age was then? did you say how old you was?

A. Forty-five or thereabouts.

Q. Did not you say you were then twelve years old?

A. I was led into it, I said I was and could not tell how much more; I was ask'd how old then was I, ten, twelve, fourteen, or sixteen, and said I might be ten, twelve, fourteen, or sixteen, which I can't determine.

Q. How old was you at the Time of the Trial, did not you say forty five or thereabouts?

A. Here's my Age (shewing the Paper) I have now got it, and it is vastly more.

Q. When was you born?

A. I was born in the year 1691, but then I did not know.

Court.] What is your Reason for saying you were born in the year 1691?

A. I got my Age out of the Registry.

Q. What Registry?

A. Of St. Nicholas.

Q. What Parish of St. Nicholas?

A. St. Nicholas, Dublin.

Q. Which, there are two Parishes called St. Nicholas?

A. This St. Nicholas next us here.

Q. Whereabouts is the Church, in what Street?

A. St. Nicholas hereabouts, I don't remember the Street.

Court.] That's St. Nicholas within.

Mr. Recorder.] Why then you were twenty two at that Time.

Court.] There's ten Years difference, and that is a great while to be mistaken in.

Mrs. Cole.] I tell you, that here was the Thing just as I was ask'd; when they ask'd me my Age, I said I cannot tell, take so many out of so many, and then you'll know; there was some of the Lawyers immediately talking, she's perjured, and that struck me to the Heart, that I did not know what I said.

Court.] Were you ask'd that Question but once on the Trial, or twice, or thrice?

A. I know I was ask'd it once, and when I was on the Table the last Time, that was the second Time, I had then recollected myself.

Mr. Recorder.] Was not you ask'd how it came that your Mother shew'd you the Abortion when so very young?

A. I don't know indeed.

Q. Do you remember when you came to the Age of one and twenty? did you never reckon your Years?

A. I did not, and there was a constant dispute and debate what Year I was born.

Q. Were you of Age when you went to Dunmaine?

A. To be sure I find by this Registry I was.

Q. That's no Evidence, were you one and twenty when you went to Dunmaine?

A. I was to be sure.

Q. You say it positive?

A. I do say it positive.

Q. How came you to mistake so prodigiously?

A. I do believe every one of you may remember that I said, take so many out of so many, and then you may know.

Q. Well, Madam, when your Mother shew'd you this in the Bafon, had it any Figure or Shape?

A. It seemed to me to have it.

Q. What Figure had it?

A. It had Head and Limbs, Sir.

Q. Could you distinguish them plainly?

A. It was but very little.

Q. Did you take and examine it?

A. I do believe my Mother shew'd me the Limbs, I did not take it to examine it; I look'd at it as it lay there.

Q. Did your Mother do any more than shew it to you as it lay?

A. I don't know but she might, to shew the Limbs.

Q. Did she take it in her Hand?

A. I don't remember that she did.

Q. Did she stir it in the Bafon?

A. She might stir it with a Feather.

Q. Did she, or did she not?

A. I cannot say.

Q. Had she a Feather in her Hand?

A. I cannot say that she had.

Q. Had it all its Limbs?

A. I might see the Limbs and the large Eyes.

C

Q. What



Q. What did you take it to be when you saw it first?

A. My Mother told me it was an *Abortion*.

Q. That was in the Closet?

A. In the Closet.

Q. Is there a Window in the Closet?

A. There's three Windows.

Q. Did your Mother speak to you about it before you went into the Closet?

A. Before I went into my Lady's Room my Mother told me she had miscarried.

Q. Was that all she told you?

A. That's all, Sir.

Q. Did your Mother or you go into the Closet first?

A. When I went into the Closet my Mother was there, we went into the Room together, and I believe my Mother went into the Closet before I did.

Q. Did your Mother speak before she went into the Closet about the *Abortion*?

A. I don't recollect, my Mother told me my Lady had miscarried.

Q. But did she tell you of the *Abortion* before she went in, did she say that there was one in the Closet?

A. No, she did not.

Q. You are sure it was not before she went in?

A. Indeed, I really don't know, Sir, she told me there was one, but whether before or after I cannot be positive.

Q. Did you, when you were formerly examined, say it was before or after, or that you could not tell?

A. My confusion was so great, I did not know what I said.

Q. Did she, or did she not tell you before she went into the Closet?

A. She told me my Lady had miscarried before I went in, and when I went in I saw the *Abortion*.

Q. What carried you into the Closet if you did not know it was there?

A. My Mother and I went in; my Mother was there and I might go to her, when she had made her Compliments to my Lady, she went in and I followed her.

Q. When you were ask'd before how you came to go into the Closet, did not you answer this, that your Mother told you the *Abortion* was there before you went in?

A. Indeed I might say it, I might mistake in the Term.

Q. Did you, or did you not say so?

A. I believe I did say it. I know my Mother told me my Lady had miscarried.

Q. Pray, Madam, when did you leave *Dunmaine*?

A. We left it, I believe, the latter end of *May*, or beginning of *June*, which I can't tell, and went to *Burton-Hall*.

Q. Did not you swear upon the former Trial, that my Lord sat at the lower end of the Table, opposite to my Lady, for now you place him next yourself?

A. I believe I did say it. But I say that I was in that Confusion when I was here before that I might; I might mistake in that, for not a Mortal had spoke to me what I was to be examined about; but when I came on the Table, I was in the greatest Confusion that any body could possibly be. If I did say it, it was owing to downright Confusion.

Court.] What time did you leave *Dunmaine*?

A. We left it the latter end of *May*, or beginning of *June*, I cannot be positive which.

Q. That was in the Year 1714?

A. In 1714, my Lord.

Mr. Recorder.] When did you come to Town?

A. We did not come 'till the latter end of *July*, for we stay'd at *Burton-Hall*.

Q. How long did you stay there?

A. I can't tell whether *Six Weeks* or how long.

Q. Recollect as near as you can?

A. I believe till quite the latter end of *July*.

Q. And you came to Town when?

A. The latter end of *July*, as near as I can recollect it.

Q. When did my Lady come to Town? Was she in Town when you came?

A. I don't know whether she was or not.

Q. Did not my Lady and you visit after?

A. When I came to Town a Sister of mine was in the Smallpox, I never had it, and my Mother sent me out of the House directly, which makes me as to any thing after that quite uncertain; and I was not at home after in my Father's House 'till the Year 1718, but with one Relation or other.

Q. Pray, Madam, when you came to Town, was not the first News you had of the Death of the Queen?

A. I know, I was not at my Father's House at the Death of the Queen.

Q. Where was you then?

A. At Mr. *Monck's* in *Darvson-Street*.

Q. Was not it soon after you came to Town that you heard of the Queen's Death?

A. It was soon after; I believe it was.

Q. How soon after was it that you heard that News?

A. Indeed I will not be certain, nor cannot.

Q. Was not it the first Publick News you heard?

A. It might.

Q. Do you believe it was?

A. I do believe it was.

Q. Did not you ascertain your time of coming to Town by that?

A. I believe I did, I don't know whether I did or not, but I know by my Sister's being in the Small-pox.

Q. Was Lady *Altham* in Town then?

A. Indeed I can't say whether she was or no; for I tell you I left the House, my Lady might be in Town and I not know it, for I left the House on my Sister's being ill.

Q. Can you say whether she was in Town when you heard of the Queen's Death?

A. I cannot tell, but I believe she was not in Town.

Q. Pray, Madam, when my Lady came to Town, where did she lodge the second time? Did she come soon after you?

A. I saw her in Town to be sure, but what time of the Year I cannot be certain; but I think it was at Mrs. *Vice's*.

Q. Did not you swear upon the last Trial that you were positive that my Lady went to *Vice's* after the Reconciliation?

A. I don't know whether it is positive or not, or whether I swore it positive or not.

Q. Did



Q. Did not you swear it, that they went to Vice's before they went to Dunmaine?

A. I believe I did.

Q. Can you now be positive?

A. I can so far, that they stay'd but a few Days at our House, and did not go from our House to Dunmaine.

Q. How many Days did they stay in your House, was it three, or ten, or how many?

A. I believe about four or five Days after the Reconciliation, indeed I cannot tell.

Q. But you are sure my Lady went to Mrs. Vice's?

A. She went to my Lord's Lodgings, wherever that was.

Q. Did you visit there before she went out of Town?

A. I did see my Lady once.

Q. Was it before or after Christmas that they went to the Country?

A. I believe it was before; I cannot tell.

Court.] Did you ever see my Lord and Lady at my Lord's Lodgings?

A. I did, my Lord.

Q. Did you go there?

A. I went.

Q. Where was it that they lodged?

A. It was a House, as near as I can remember, next to the Slip at Temple-Barr.

Q. When was it that you saw them there?

A. It was after the Reconciliation, before they went to the Country.

Q. Did you visit them a second time?

A. I did.

Q. Was it at the same House?

A. To the best of my Knowledge, it was.

Q. Whose House was that?

A. They call it Vice's House, to the best of my Knowledge.

Mr. Recorder.] Now, Madam, what time of the Year was it you saw them the second time at Vice's, in what Month? Pray, recollect, for it is very material.

A. Indeed I cannot tell.

Q. You came to Town you say in July, and the first News you heard was the Death of the Queen, was it before or after that you saw her there?

A. It was after that I saw her.

Q. How long after?

A. I cannot say.

Q. Was it that year?

A. I believe it was that year, but I cannot ascertain the Month.

Q. Are you sure it was that year? See and recollect the Month, if you can?

A. It was that Year, but I cannot ascertain what Month.

Q. Was Mrs. Setwright at Dunmaine when you were there?

A. She was.

Q. What was she there?

A. She was House-keeper.

Q. Did you know Sarah Weedon there?

A. I knew nothing of Sarah Weedon at all.

Q. Did not you know John Weedon the Coachman's Wife?

A. I never knew that John Weedon the Coachman was married 'till of late.

Q. Was John Weedon the Coachman there at that time?

A. He was there.

Q. Who was House-maid there then?

A. I do not know.

Q. Don't you remember Nelly Thomas?

A. No, I don't.

Q. Do you know Bourk the Postilion?

A. I don't know him.

Q. Did not you go abroad and stay a Fort-night at Mr. Boyde's House and Bourk carry you?

A. I went abroad, but how long I stayed I cannot tell.

Q. Where did you go?

A. To Mr. Boyde's.

Q. And did not Bourk carry you there?

A. I don't know who carried me there?

Q. Was not it one of my Lord's Servants?

A. It was, but which I can't tell.

Q. How soon after your being at Dunmaine was it, that you went to Mr. Boyde's House?

A. I cannot tell; but it was while I was at Dunmaine.

Q. How long did you stay at Mr. Boyde's?

A. I cannot tell that neither; but I believe a very short time.

Q. What Boyde was it?

A. Boyde of Rosslar.

Q. Pray, Madam, who was Butler at Dunmaine when you were there?

A. Rolph.

Q. Did you know Anthony Dyer?

A. No, I did not.

Q. Who was my Lord's Gentleman?

A. Indeed, I cannot tell.

Q. Had my Lady a Page?

A. Indeed, I don't know that I ever saw any thing in the Equipage that was a Page.

Q. Had my Lady a Page or not?

A. She might have a Page for ought I know, but I don't remember.

Q. Was this Visit to Boyde's before or after you saw the Abortion?

A. Indeed, I cannot tell.

Q. Were you at Dunmaine in the Month of April?

A. I was there.

Q. On St. George's Day?

A. I cannot tell.

Q. Were there any Races while you were there?

A. There might be, but I cannot tell.

Q. Was you at any Races with Lady Altham?

A. Indeed, I don't remember.

Q. Did any Girls run for a Smock there? Was there a Smock-Race?

A. To my Knowledge, I never saw any such thing in the Country.

Q. Do you know Mr. Mark Whyte?

A. Yes, I have seen him.

Q. Had you any Discourse with him at any time?

A. Yes, he was at Gorey, and we had some Discourse, I can't particularly tell what.

Q. Can't you remember what you said to him?

A. I told him some Servants Names that were at Dunmaine; and he ask'd me if I remembered my Lady to be ever with Child; I told him I did, and that she miscarried; and his Answer was, as to her Miscarriage we don't go upon that, for we don't suppose my Lady a barren Woman.

Q. Was that all that pass'd between you?

A. Mr. Mark Whyte ask'd me if I remembered any of the Servants of the Family; I told him I did, and named all I knew.

Q. Did



Q. Did not you tell him that you'd swear for my Lord *Anglesey* if he would renew your Husband's Lease?

A. Indeed, I deny it absolutely.

Q. Did you ask the Renewal of the Lease?

A. Yes, I'll tell you how it was ask'd. Mr. *Cole* had been employed for Captain *Annesley* for a long time, and had a Promise for a Lease from him long before that, and when Mr. *Whyte* was spoke to upon this former Promise of this Lease, I desired the Captain would make good his Promise.

Q. Do you know Mr. *Frank Annesley* of *Balsfax*?

A. I've very little Acquaintance with him.

Q. Did not you tell Mr. *Whyte* that you could be a very material Witness for my Lord, but that you would not tell him what you could say 'till your Lease was renewed?

A. I did not, unless in this Manner; if the proving a Miscarriage can prove of any Service to my Lord, I can prove the Miscarriage.

Court.] And did you say no more?

A. No indeed. I can't say that I did.

Mr. Recorder.] Had you any Discourse with Mr. *Frank Annesley*?

A. He came one Day to Sister *Briscoe's* House, and wanted to speak to her, and she was not ready for going down and desired that I would, and I went down Stairs to him, and a little while after she came down, and I shew'd him the *Subpœna* that I was serv'd with.

Jury.] Madam, do you recollect the Night that Mrs. *Heath* awakened your Mother in order to see my Lady?

A. I don't, Sir.

Q. Do you remember that she came to awaken her?

A. I do remember that she came.

Q. Was there a Light in the Room?

A. There was not.

Q. Had Mrs. *Heath* a Light with her?

A. She might have a Candle in her Hand.

Q. Was there Light or not?

A. There was not, I believe there might be a Fire.

Q. Had she a Candle in her Hand?

A. Indeed I cannot tell, I had been asleep and she awakened me, and I cannot tell.

Q. Was there Light of any Kind in the Room?

A. There might be a Candle, and there might not.

The Reason of the Question is this; look at that Woman.

The Witness looks at Mrs. *Heath*.

Q. Will you swear positively, that that is the Woman, that came into the Room to call your Mother?

A. Mrs. *Heath* was the Person, and I believe that is the same.

Q. How can you tell it was her, when there was no Light?

A. I knew her Voice.

Mr. Recorder.] Did you see Lady *Altham* in *Dublin* in the Year 1715.

A. I don't think I did; I don't know that I did at all; if she was in Town I saw her, but I can't tell whether she was or not.

Court.] Did your Mother shew you the *Abortion*?

A. I went into the Closet and saw it.

Q. Did your Mother call you to see it?

A. I don't know that she did.

Q. Did she desire you to look at the *Abortion*?

A. I don't know that she did.

Q. When was you married?

A. I was married in the Year ——— I shall be next *March* 14 Years married.

Q. Can you recollect your Age when you were married?

A. Indeed I cannot, except I count.

Court.] I only ask, because young Women generally keep account of their Age.

Mrs. *Cole*.] Well, I never did, and I tell you the Reason, there was a constant debate about my Age, the Leaf was torn out of the Bible.

Q. Did you ever see an *Abortion* before that time?

A. No, nor for some time after.

Mr. Recorder.] Did any Body attend my Lady on this Miscarriage?

A. I cannot remember one.

Mr. Solicitor.] My Lord, I only beg Leave to make one Observation on the Examination of this Witness; it seemed to be apprehended by the Court that we concerned for the Crown had a mind to lengthen out this Trial unnecessarily; you'll please to recollect what little time we took in the original Examination, and how much the Recorder has spent in cross examining her, and I beg Leave to say, that he did not ask one improper Question.

Court.] Since you acknowledge he did not ask one improper Question, you can't think the time has been taken up unnecessarily.

Mr. Solicitor.] I only mention this to shew how necessary it is for us to take up as much time in our Examinations, if we find it material.

Court.] You shall have all the time you can desire, to examine any Witnesses that are material.

N. B. The Examination of Mrs. *Cole* held from 6 Minutes before nine, to 20 Minutes after Eleven.

Court.] Call your next Witness.

Cryer.] Doctor *Jemmat*.

Mr. Spring.] My Lord, I desire, before Doctor *Jemmat* comes upon the Table, what he is to be examined to may be opened.

Mr. Serjeant *Tisdall*.] My Lord, the next Witness we shall produce is Doctor *Jemmat*, a Doctor of Physic, who attended Lady *Altham* in the Year 1714, at Mrs. *Vice's*, at the time she was with Child.

## 2. DOCTOR SAMUEL JEMMAT.

Mr. Daly.] I desire to ask a previous Question, which is this; did not you make an Affidavit of the Testimony you could give in this Cause?

Dr. Samuel *Jemmat*.] Do you mean in this Court or any other?

Court.] Before any Person?

A. Before a Master in *Chancery* I gave in an Examination.

Mr. Daly.] Upon what Occasion, Doctor?

A. They ask'd me what I had to say in this Affair and I told them.

Q. Who



Q. Who ask'd you ?

A. One Mr. Cooper, a Master in Chancery.

Court.] What Cooper, do you mean, Doctor Cooper ?

A. He was a Stranger to me.

Q. Where was it that you were examined ?

A. It was in the Queen's County, my Lord.

Q. What time was this ?

A. I cannot tell whether in August, or September, or July the last Year.

Mr. Serjeant Tisdall.] Did you know the late Lord and Lady Altham ?

A. I did.

Q. Was you employ'd in that Family in any Capacity and what ?

A. I was employ'd by Arthur, Lord Altham as his Physician for some Years.

Q. Pray, Sir, did you ever attend Lady Altham as a Physician ?

A. I did attend her Ladyship.

Court.] Do you remember when she came from England into this Kingdom ?

A. I did not know when she came first, but I think about the latter end of November 1714, Lord Altham came to my House in Anglesey-street in a Chariot, and desired I would go with him to see my Lady, for he was afraid she had a Fever.

Q. And did you go ?

A. I went in the Chariot with Arthur, Lord Altham, to one Mrs. Vice's in Essex-street, where they then lodged.

Mr. Serjeant Tisdall.] And did you visit my Lady then ?

A. I did, and found her very hot and feverish, and I ask'd how long she had been so, and my Lord told me, (for only he, and she and I were in the Room,) he told me that they had been out late at the Night, whether at a Ball, or Play, or Music-meeting I don't remember, and he was apprehensive my Lady had got cold that way ; but I forget whether he said it was at a Play, or Concert of Music, or any other Diversion.

Q. Pray, Sir, did you prescribe for her ?

A. I did ; I told her, I thought a little Blood taken away would be proper, and a gentle Puke necessary ; but her Ladyship calling for a Bason, I thought she had an Inclination to Vomit ; but instead of that, she made, what the Understanding Women call, *Long Spits*, as if she was with Child ; I ask'd her Ladyship then if she was with Child ; she told me she had all the reason in the World to believe that she was so : I then ask'd how long, and she said, *three Months*. I ask'd her Ladyship upon that, if she had been Regular ; she told me that she had as any Woman living till about three Months before that time my Lord came for me. Upon which, I altered the Prescription I had before given, and ordered such mild Medicines to mitigate the Fever, as might not endanger her Ladyship, or the Infant within her.

Q. Do you remember whether Mrs. Heath lived there with my Lady ?

A. My Lords and Gentlemen, whenever I was sent for to any Noble Family, or Gentleman's House, my Business was to attend what I was sent for about, and I never took notice of any Servant.

Q. Do you know whether Lady Altham was with Child then, or not ; have you any other reasons ?

A. Upon her telling me this and examining of her, I had Reason to believe she was ; I had breakfasted with them before, but I found her Countenance change, and she had yellow Spots and livid Spots came out upon her ; and I felt her Breasts and found they began to grow *turgid* ; upon which, I found that *she was with Child*, and that made me alter the Prescriptions, that they might not hurt the one or the other.

Q. Do you know whether she went on in her Pregnancy ?

A. I gave her Directions how to manage herself, but her disorder being what we call a *Febris Ephimera*, which lasted but three Days, my Wife and I dined with them at a third Place, and after Dinner, my Wife, who saw her Condition, went out with her, and returned again in a few Minutes ; and my Lady told my Wife.——

Court.] You are not to say what my Lady told your Wife, but only what you know yourself of her being with Child.

Doctor Jemmat.] But I say, I gave her Directions how to manage herself, and my Lord told me.——

Court.] You are not to say what Lord or Lady or any body told you. Do you believe her to have been then with Child ?

A. I do.

Mr. Serjeant Marshall.] My Lord, I must insist that we have by Law a Right to ask that Question ; in the very Chapter of Perjury in *Hawkins* you'll see it laid down as a Rule, that Hearsay Evidence that serves to illustrate what is the proper Evidence to be given before the Court, shall be admitted.

Court.] Hearsay Evidence may be made use of to introduce material Evidence, but when a Witness has said all that's material, we shan't admit that.

#### CROSS EXAMINATION.

Mr. Spring.] As well as I recollect, you said, Sir, that Lord Altham carried you to see his Lady ?

A. He called upon me and I went into the Chariot with him, he did not carry me in, I assure you.

Q. Well, Sir, if he did not carry you, you went with him ?

A. I did.

Q. You said, I think, that you made an Affidavit before Mr. Cooper, to what purpose did you make that Affidavit ?

A. I had given in an Examination ; I don't know to what purpose.

Q. Do you recollect what you have said there with respect to the manner and time of attending my Lady Altham ?

A. I believe I might.

Q. Did not you say there that it was in November ?

A. I say so now.

Q. Did not you say, that the Chariot was sent for you ?

A. I believe not ; if the Master in Chancery put it down that I was sent for he mistook me, for I remember that my Lord came for me himself ; and I'll tell you why I remember it. I was then in Mourning for Queen Anne, and I had only



only one Weeper on when he came ; and he came into the Parlour and sat by the Fire till the other was put on.

Q. Would you have this understood, that if it was mention'd in the Affidavit that the Chariot was sent for you, it was a Mistake ?

Court.] He says the Master was mistaken.

Mr. Spring.] Did not you read it before you swore it ?

A. I believe I might.

Mr. Walth.] Pray, Sir, how long have you been a Physician ?

A. I took my Degree of Doctor of Physic in the Year 1711, and I think that's about 33 Years ; I've been 27 Years a Fellow of the College of Physicians, and an Honorary Fellow above four Years.

Mr. Spring.] Upon your Oath, Sir, are there any Rules in your Profession, by which a Pregnancy can be discerned from a Tympany, or any the like Disorder ?

A. By virtue of my Oath, that Question would puzzle not only the Colleges of Physicians of England and Ireland, but the Royal Society too.

Jury.] Is there such a thing as a false Conception ?

A. Very often, a *Mola* there is.

Q. There is such a Thing ?

A. No doubt of it.

Q. Are the Symptoms the same ? Have Women grown big with a false Conception ?

A. They have done it.

Mr. Walth.] The next Witness that we shall produce to your Lordship is one *Hellena Moncrieffe*. We produce this Witness to shew that in the Year 1714, she was recommended by Sir *Chamberlaine Walker*, a famous Man-Midwife of this City, to my Lady *Altham*, whilst she lodged at Mrs. *Vice's*, for a Nurse ; that she was hired and agreed with her Ladyship ; had been several times with her on that Occasion ; and will give your Lordship an account that my Lady was then with Child, and the Reasons of her Knowledge.

### 3. HELLENA MONCRIEFFE.

Mr. Walth.] Pray, what Business do you follow ?

Hel. Moncrieffe.] My Business is to attend Ladies that Lye-in.

Q. How long have you followed that Business ?

A. Twenty seven Years next March.

Q. Tell what Ladies you have attended that way ?

A. The Honourable Mrs. *Mary Moore* ; Mrs. *Ludlow*, Councillor *Ludlow's* Lady of eight Children ; Lady *Mountjoy* ; Lady *Antrim* ; Lord *Bessborough's* Family entirely.

Q. Well, did you know Sir *Chamberlaine Walker* ?

A. Very well.

Q. What Profession did he follow ?

A. Midwifry.

Q. Do you remember to have met him in the Year 1714 any where ?

A. I did, Sir.

Q. Where ?

A. In *Stafford-street*.

Q. When did you meet him there ?

A. To the best of my Knowledge, in and about November, or beginning of December 1714.

Q. Where did you meet him ?

A. In *Stafford-street*; at a Jew's House, one *Solomon*.

Q. Had you any Discourse with him there ?

Mr. Malone.] My Lord, I object to that as an illegal Question.

Mr. Walth.] I insist upon it to be a legal Question according to the Evidence opened, that she was recommended to my Lady by him; is not it proper to ask what Discourse he had with her on that occasion ?

Mr. Malone.] It is proper to examine her to that Fact, but they have open'd it a great deal further.

Mr. Walth.] Did you see Lady *Altham* ?

A. I had the Honour of seeing Lady *Altham*.

Q. Where did you see her ?

A. I saw her first at Doctor *Walker's* at that time, he was Doctor *Walker* then, and was after Knighted in the Duke of *Grafton's* time, and he spoke to me and recommended me to her Ladyship ; and said if I had a mind to Nurse, he would recommend me to a very good one. I made very little of it then ; I was giving Suck in January to a Child of Six Months old.

Q. Did you go to my Lady *Altham* ?

A. I was three different times with her ; the last time she talk'd to me a good deal about her being with Child, and what time she reckon'd. Says she, I am at a loss, as I have had some Illness, how to reckon ; and then she lifted up her Nightgown, it was of Sattin with Green Flowers in it, and shew'd me her Belly : Your Ladyship, says I, seems to be as big as any Woman gone Seven Months.

Q. And did she say she was ?

A. She said, she believed not.

Jury.] What Time was this ?

A. In January 1714-15.

Court.] How many times were you with my Lady ?

A. Three different Times I was with her.

Q. Did she lift up only her Night-gown, or all her Cloaths ?

A. Only her Night-gown.

Q. What was it you said to her then ?

A. I told her that I thought she was as big with Child as any Lady that was six or seven Months gone ; and she said herself that she was not so long with Child as seven Months.

Q. What were you recommended for to her ?

A. A Nurse.

Q. By whom ?

A. By Doctor *Walker*.

Q. A wet Nurse or dry Nurse ?

A. A wet Nurse, Sir.

Q. How came you not to accept of that Nursing ?

A. As I went there the last Time I met two or three Friends, and they asked me where I was going ; I told them where ; says one, *Moncrieffe*, take my Advice, Lord *Altham* is a bad Man, you've no Necessity and don't engage ; and for that Reason I went unto her no more, but heard she went out of Town.

Q. What



Q. What Reason had you to believe she was with Child ?

A. By her Appearance and Conversation and the laying my hand upon her Belly I had reason to believe she was with Child.

Q. From these Circumstances, as you are now a Woman of skill, can you positively say she was with Child ?

A. Upon my Word, I don't know either of the Gentlemen, it was Mr. Arthur Hill brought me into this by telling it by Accident above two years ago ; but upon the Word of a Christian, both by the Judgment that I have had since and before, my Lady Altham was as much with Child as ever I was, and I have had one and twenty Children.

Mr. Walth. ] Do you know Mrs. Heath ?

A. So far I've recollected, that the last Time I breakfasted with my Lady, there came in a Gentlewoman they call'd my Lady's Woman, she look'd opposite to me, and she was a thin-fac'd black Woman at that time ; and there came Mrs. Tilby, a Mantua-Maker, an eminent Mantua-Maker at that time, and brought a Gown with her, but whether my Lady's or no I cannot tell ; but she staid at the Dining Room Door, and ask'd me what I was doing there.

Q. Tell the Discourse you had with Mrs. Heath ?

A. I had none at all.

Q. Did you see her there ?

A. I saw her come to tell the Mantua-Maker was come to her Ladyship.

Q. Do you remember what Lady Altham call'd her ?

A. I do not remember upon my Word, I know she was a thin black Woman, very Swarthy and had black Hair.

Mr. Daly. ] We admit that Mrs. Heath was my Lady's Woman.

Mr. Walth. ] Do you remember on what Occasion Mrs. Tilby came ?

A. To alter a Suit of Black Silk.

Q. To let them out, or take them in ?

A. I cannot tell that ; it was the Queen's Mourning.

Q. How do you know it was Mourning for the Queen ?

A. The Child I was giving Suck to was born the 20th of July, I have it in my Bible, and the Queen died in August following.

Q. How many times did you go to visit my Lady ?

A. Three different Times in Effex-street ; the first time she was indisposed.

Q. Every Time that you came there did you see this Lady ?

A. Never to my Knowledge but once ; I had no Reason to retain it.

CROSS EXAMINATION.

Mr. Daly. ] You waited of Lady Altham, had you ever seen her before that time ?

A. I had, as I had been Woman to Lady Louth, they were intimate, and I had seen her.

Q. Where did you wait on her first ?

A. First I waited on her in Dr. Walker's House in Capel-Street.

Q. Where did you wait on her at the Time you convers'd with her and handled her Belly ?

A. At Mrs. Vice's in Effex-Street.

Q. What Year was that in ?

A. In the year 1714.

Q. What Time ?

A. Between the Beginning and 23d of January, because I put out my own Child to Nurse the 22d, and it was my second Child.

Q. Who shew'd you into my Lady's Room the first Time ?

A. To the best of my Knowledge, a Man Servant.

Q. Name him ?

A. Indeed I can't. I go very often to Ladies now and don't know their Servants.

Q. What sort of Man was he ?

A. He was an elderly Man, I've seen him afterwards.

Q. What Time was it that Lady Altham and Lady Louth were intimate and you saw her there ?

A. It was when they were in Dublin.

Q. Where did Lady Louth lodge ?

A. She lodg'd at one Farrel's upon the Quay.

Q. Did you see Lady Altham there ?

A. I did.

Q. At what Time ?

A. I cannot recollect my Lady's Visitors.

Q. What Year was it ?

A. To the best of my Knowledge, it was 1713.

Q. Pray, how often did you see her there ?

A. I believe three or four or five times, I know they were very intimate.

Q. Was there any Servant of my Lady's present, when you were in the Room and handled her Belly ?

A. I cannot tell ; there was no Servant, it is not common now, let alone at that Time : Yes, there was a Woman that went with me, and she was by.

Q. Was she present ?

A. She was.

Q. Had she any Trade or Calling ?

A. She was a creditable Man's Wife.

Q. Did she understand Midwifry ?

A. She did not.

Q. And though it is not common for a Servant to see her Lady's Belly handled, yet a Lady that went with you was present you say ?

A. Yes, she was.

Q. Can you recollect what Time of the year 1713 it was you saw my Lady Altham at Lady Louth's ?

A. I can't indeed.

Q. Was it in Summer ?

A. I believe it might be in Summer ; I am not positive as to that.

Q. What was the Woman's name that was present with you when you handled my Lady's Belly ?

A. Her Name was Claffon.

Q. But you don't know the Servant that shew'd you up Stairs ?

A. Indeed I don't.

Q. And none were present ?

A. None that I saw.

Q. Do you know any Person in the House that has seen you there ?

A. Mrs. Vice's Servant saw me there.

Q. What



Q. What was her Name ?  
 A. Her name was *Peggy*.  
 Q. Did Mrs. *Vice* see you there ?  
 A. She did ; I sat half an hour in her Room.  
 Q. Had she any Children ?  
 A. I think a Girl or two.  
 Q. You saw her Daughter ?  
 A. I believe so ; they were little and her Children.  
 Q. Upon your Oath, did you see Lady *Altham* before *Michaelmas* 1713 ?  
 A. I can't tell, because it was no way material to me to recollect that.  
 Q. When did you leave Lady *Louth* ?  
 A. In the Year 1713.  
 Q. About what Time ?  
 A. I believe it might be *February*, for I lay in of my first Child in *February*.  
 Q. Did you make any Affidavit concerning this Affair ?  
 A. Yes, Sir.  
 Q. Before whom ?  
 A. I was brought by a Gentleman to *Essex-Street* to a Commission, I think it was, for I know nothing about it : I think about two years last Summer Mr. *Arthur Hill* began a Discourse about this Mr. *Annesley*. He ask'd me if ever I saw my Lady *Altham*, I told him I did and saw her with Child, and he told it to Somebody that sent for me.  
 Q. What Age were you in 1713.  
 A. I was born the 12th of *March* 1688.  
 Q. Was not it in Summer before that, that you left my Lady *Louth* ?  
 A. No, Sir, it was in *February*.  
 Q. Did not you say it was in Summer ?  
 A. I say that it was in Summer that my Lady *Altham* visited Lady *Louth*.  
 Court.] You've attended a great many Women, pray, can you tell the Difference between a false Conception and a real one ?  
 A. Yes, Sir, by the Conversation of the Woman.  
 Q. But can you any otherwise ?  
 A. No, really, but by Discourse.  
 Q. Did you feel the Child stir ?  
 A. No, really, my Lord, I did not ; but I remember my Lady, when I said, she seem'd to be seven Months with Child, said no, she was not.  
 Q. What Child was you nursing at that Time ?  
 A. My second Child I nurs'd then.  
 Jury.] You say, Madam, that when you waited upon Lady *Altham*, she told you she was gone about seven Months ?  
 A. I told her so.  
 Q. How came you to tell her so ?  
 A. Because she ask'd me the Question ; she told me she had some Illness, and could not tell how to reckon, but said she found herself very big and uneasy ; I said she seem'd about 6 or 7 Months gone with Child.  
 Q. But why should she ask you, if she could not tell herself ?  
 A. There are a great many Questions ask'd by Ladies, when they are with Child.  
 Q. You were unexperienced then. Was your Hand upon her naked Belly ?  
 A. No, above her under Petticoat.

Q. I think you said you felt nothing stir ?  
 A. I never said I did.  
 Q. What was the Occasion of putting your Hand upon her Cloaths ?  
 A. To judge by her bulk ; it is a mighty common Thing.  
 Q. You were at Mrs. *Vice's* ?  
 A. I was.  
 Q. You say you sat there above an Hour ?  
 A. I said half an Hour.  
 Q. Did you see any of her Children ?  
 A. I think I saw Children.  
 Q. What were they ?  
 A. It was a Girl.  
 Q. How old might it be ?  
 A. Why indeed very little ; about 5 or 6 years old ; I don't know whether they were her's or the Neighbour's Children, but they came into her Room.  
 Mr. Daly.] How long have you been a Nurse ?  
 A. Seven and twenty years very near, not all out till *March* next.  
 Court.] Do you know whether you would know my Lady's Woman now ?

Witness looks at Mrs. *Heath*, and says, I cannot say that I have any Knowledge of the Gentlewoman's Face at all ; the Woman then was a thin swarthy Woman with Black Hair.

#### 4. Mrs. MARGARET BUSHE.

Mr. Harward.] We call this Witness, my Lord, to the same Purpose ; she was an intimate Acquaintance of my Lady *Altham*, and will prove that she was with Child, and afterwards was delivered of a Child.

Mrs. Margaret Bushe.] Pray, Madam, did you know my Lady *Altham* ?

A. I did ; I was acquainted with her.

Q. Pray, Madam, did you ever see her at *New-Ross* ?

A. I did.

Q. When you saw her at *New-Ross* in what Condition was she ?

A. She seem'd to be with Child, pretty big.

Q. Was this, Madam, at *New-Ross* ?

A. At *New-Ross*.

Q. Pray, Madam, did you see her but once there, or more frequently ?

A. I saw Lady *Altham* three times at *New-Ross*, to the best of my Memory.

Q. Pray, Madam, in what year, or about what time was it that you saw her there ?

A. To the best of my Recollection and Memory, it was *February* in the year 1714-15.

Q. Have you any particular Reasons that induce you to recollect that it was about that time ?

A. Yes, I was at that Side of the Country 'till a little before *Christmas* that Year. It was about half a year after the Death of Queen *Anne*, they were all in Mourning when I visited her, except one or two that went out, and I don't know whether they were in Mourning or no ; and I do believe it was for Queen *Anne*.

Q. Pray,



Q. Pray, Madam, did this Lady stay for any Time at *Ross*, or go any where else?

A. The Day I visited her I saw her twice then, first at Captain *Butler's*; there Mrs. *Butler* introduced me to Lady *Altham*.

Q. Where did Captain *Butler* live?

A. He liv'd in *Ross*.

Q. Where did you see my Lady next?

A. A Day or two after I visited my Lady at her own Lodgings in *Ross*.

Q. Pray, Madam, did she continue for any Time there, or did she leave it soon after?

A. The Day I visited her, she talk'd of going out of Town next Morning.

Court.] Did she go?

A. I don't know, I left the Town in a few Days myself, and did not see her in *Ross* after.

Mr. Harward.] How soon did you return to *New Ross*?

A. I was frequently there to, and fro, for I lived at my Father's within three Miles of it, and I can't tell how soon; but I'm sure towards the latter End of the Month of *April*, and to the best of my Memory, either the *Saturday* in Easter Week, or early the next week it was, that I went there.

Q. Pray, Madam, recollect whether this Lady was a Lady far gone with Child, or was early in her Pregnancy?

A. She look'd big, and that's all the Memory I know of it, and I ask'd her no Questions.

Q. Did not you inquire about her being with Child?

A. Several Gentlemen were by, and I did not think it proper.

Q. Do you know of her being delivered of that big Belly?

A. I was at my Father's, and some of his Servants went to Town. —

Court.] You must only speak from your own Knowledge, Madam, not what you heard from any body.

Mrs. *Bushe*.] I wish'd my Lord Joy of that Child on the *Quay* of *Ross*.

Mr. Recorder.] That's nothing.

Mrs. *Bushe*.] I know nothing more of myself, but they both told me so.

Court.] Madam, you come here to declare the Truth, the whole Truth and nothing but the Truth; and if you swear to what you heard from other People, you may swear false, for they might deceive you.

Mrs. *Bushe*.] I may be deceived, but I will swear the Truth, and nothing but what I know.

Mr. Harward.] I shall put to her a legal Question. Pray, Madam, you say you saw her big bellied, did you ever see her afterwards when she wanted that big belly?

A. I did.

Court.] How soon after?

A. To the best of my Recollection, I will not be positive, I saw her here in *Dublin* towards the latter end of the Month of *June* that Year.

Q. What Year?

A. In *June*, 1715.

Q. In *June* 1715?

A. To the best of my Recollection, about the latter End of *June* in the Year 1715.

Mr. Harward.] How did she appear then, was she with Child or not?

A. She was very slender, and look'd pale when I saw her.

Q. Give an account of what happen'd when you saw her in *Dublin*?

A. I went to visit her; I was just upon leaving Town, and thought proper to visit her before I went; I found her undress'd, and she told me she had been busy packing up into the Country, and was going to *Dunmaine*. It is to no Purpose, I find to tell you what she told me.

Mr. Harward.] The Nature of all Evidence must be to discover the Truth, and there is no way of coming at the Truth but by the essential and circumstantial Parts of every Fact; she now says she visited my Lady *Altham* in *Dublin*.

Court.] That's material.

Mr. Harward.] I ask her then, my Lord, whether Lady *Altham* gave any Account of what became of that big Belly of her's. I have a Right, I think, to know that: or otherwise our Ears are to be shut against the Truth.

Court.] If you were upon a Trial of who was Heir to the Estate, your Question would be proper; but in a Case of Perjury, your Question is not proper, for what Lady *Altham* says is no Evidence for or against the Traverser.

Mr. Harward.] I would always be in your Lordship's Judgment about the legality of any Question, but I beg Leave to mention what I understand I have a Right to insist on; I humbly apprehend I have a Right to introduce the material part of Evidence by every thing that precedes it and is relative to it.

Court.] You have the material part of your Evidence already; the Witness says she saw Lady *Altham* big bellied at *Ross*, and soon after in *Dublin* without a big Belly; that's all she knows, or has to say that's material; if Lady *Altham* told a thousand People she had a Child that's no Evidence against Mrs. *Heath*.

Mr. Harward.] What do you apprehend became of that big Belly?

Mr. Daly.] My Lord, I must insist upon it that the Witness's Apprehensions are no Evidence.

Mr. Harward.] I am pretty confident I cannot be mistaken in this Point, I have a Right to have the Apprehensions of every body, on Oath.

Court.] I beg your Pardon, Mr. Harward, shew your Authority.

Mr. Harward.] I will, my Lord, I beg Leave to lay it down as an established Rule, since I am call'd upon, and I hope they will indulge me to give Account of myself. My Lord, I lay down this as a Rule of Evidence, that in all Crimes whatever, the Apprehensions of a Witness are admitted as Evidence; suppose if a Man was indicted for Murder, and a Witness against him gave account of Facts that he had seen concerning that Murder, it is every day's Experience to ask that Witness what he apprehended upon them Facts. This is the Law, and I must humbly submit it to be so, that when a Witness gives account of particular Facts, he's ask'd what he apprehended upon them Facts, but he cannot tell what he apprehended, unless he lays Facts before you, which are the Ground of that Apprehension.

Mr. Recorder.] It is the first time that ever I heard that a Man is said in a Court of Law to be examined to his Apprehension of Facts by the Prosecutors of a criminal Cause; the Plaintiff can never ask Belief or Apprehension; I may but you cannot.

Court.] I see the Doctrine, and whither it tends; I tell you how I apprehend the Law to be,



be, and to be very clear in the Point. The Apprehension of a Witness is ask'd where no other Evidence can be had in capital Cases; as where a Witness is produced to prove a Wound given; he's ask'd whether he apprehends that Wound was the cause of Death. That must be ask'd, for he cannot tell otherwise. It is the best Evidence that can be had in that Case. But as to a Fact, if you make the Apprehension of a Witness necessary, it takes away all proof of Fact.

Mr. Harward.] Then I understand I am not to ask her any thing concerning this big Belly.

Court.] Yes, if she knows any thing of it, you may ask her.

Mr. Harward.] Aye, but not from Lady *Altham*.

Court.] No, not as to that.

Mr. Harward.] Since I am debarr'd of asking that Question, I hope I shall have better Luck in the next.

Q. Pray, Madam, what was the common Reputation of the Country concerning Lady *Altham's* being brought to Bed?

Mr. Smith.] I object to that Question my Lord.

Court.] You have much more reason to object to that, after what I have just now said.

Mr. Harward.] I acquiesce also in that, because that will settle what hereafter will be a very great Debate, when these Gentlemen come to produce their Witnesses.

Court.] The Reputation of the Country is not Evidence here. You lay down your Rules too large, Mr. *Harward*.

Court.] Pray, Madam, where in *Dublin* did you visit Lady *Altham*?

A. At whose House I don't know, for I never was there but once; the Chairmen knew where she lodg'd and carried me there; and I did not know the name of the People where they lodg'd; it was in *Essex-street* I know, a little beyond the *Post-Office*; between that and *Fleet-street*, to the best of my Knowledge.

Mr. Harward.] Do you know, Madam, whether there were any Preparations made for her Lying-in?

A. I know, when I was in *Rofs*, the Midwife that was said to lay Lady *Altham*, came to the House where she lodg'd, and sent out some Wines to my Lady.

Court.] Do you know that these Wines went out to Lady *Altham*?

A. Indeed I did not send out the Wines myself.

#### CROSS EXAMINATION.

Mr. Spring.] Pray, Madam, you said you saw my Lady *Altham* at *Rofs*?

A. I did, Sir.

Q. I think you say it was in the Year 1714 or 1715?

A. In 1714-15, in *February* I first saw her.

Q. Where did she lodge then?

A. At Mr. *Samuel Stephens's*.

Q. How long did she remain in that Town during that time?

A. I can't tell, for I don't know whether she or I went away first.

Q. Do you know one Mrs. *Butler*, that lives on the *Quay* in this Town?

A. I do.

Q. Had you any Conversation with her?

Mr. Serjeant *Marshall*.] My Lord, I must object to that Question.

Court.] What the Witness has said to any body is Evidence against her on cross Examination; but not what others have told her.

Mrs. *Bushe*.] There was some Conversation.

Q. What did you tell this Miss *Butler* in relation to Lady *Altham's* having or not having a Child?

A. I tell you what I said on that Head. I told her that upon Inquiry after this Child, some Years after my Lord and Lady parted, I was told it was dead, and never hearing any thing to the contrary that could convince me, I always thought he was dead.

Q. Did you never tell her, upon your Oath, that Lady *Altham* had had no Child?

A. I never did; but I told her that I was a good while before I could think, after Mr. *Annesley's* coming over, that he was my Lady *Altham's* Child.

Court.] Gentlemen, call your next Witness.

Mr. *Robins*.] My Lord, the next Witness we produce is *Alice Betts*, to prove Lady *Altham* was with Child, and the Traverser's whole Account to her of her being with Child.

#### 5. ALICE BETTS.

Court.] Was you examined on the former Trial?

*Alice Betts*.] Yes, I was.

Mr. *Robins*.] Did you know *Arthur Lord Altham*?

A. Yes, I did.

Q. And Lady *Altham* his Wife?

A. Yes, Sir.

Q. Do you know any thing of my Lady's being with Child?

A. Yes, Sir, I did.

Q. Tell what you know of your own Knowledge?

A. Why, I went to see my Lady at Mrs. *Vice's* in *Essex-street*, and my Lord met me and clap'd me on my Back, and said, *By G—d, Alley, Moll's with Child*.

Q. What do you know of your own Knowledge concerning her being with Child?

A. I know, by seeing of her with Child, and that is all I can tell by seeing of her big, and joked with her and wish'd her much Joy, and she did not deny it.

Q. Do you know Mrs. *Heath*?

A. I knew Mrs. *Heath* that waited on my Lady, but I can't tell at this Distance whether it be her; I am nearighted. [The Witness goes nearer to her, and says] I think it is her, to the best of my Knowledge.

Q. Had you any Discourse with her about my Lady, tell when and where?

A. I used to joke with her about my Lady's being with Child at Mrs. *Vice's*.

Q. When?

A. In *November* and after.

Q. In what Year?

A. In the Year 1714.

Q. Was it before or after Queen *Anne* died?

A. After the Queen died.

Q. What



Q. What did she say?

A. We used to be talking and joking that Way, we were glad my Lady was with Child; but I never used to ask Mrs. Heath seriously about it. It is no more than Jest.

Q. Do you know any thing more of this Matter?

A. My Lady came one Day to our House.

Q. Whose House was that?

A. Captain Briscoe's.

Q. Was you Servant there?

A. I waited on Mrs. Briscoe. And my Lord and Lady had a little falling-out, and she came in a little Pett to our House, and went into Mrs. Briscoe's Room and cried; she cried most terribly; and a little after Mrs. Heath came in with a blue Box in her Hand with my Lady's Head-cloaths, for my Lady came undress'd in a long scarlet Cloak; and I help'd Mrs. Heath to dress and undress her, and she had a long Silk Coat upon her.

Q. What were the Words Mrs. Heath said about my Lady's being with Child?

A. I can't remember the particular Words any more than that we were jesting in a little way.

Q. How?

A. Why, we were pleas'd to see that my Lady was with Child; Mrs. Heath knows it herself; Mrs. Heath knew me mighty well, we were intimately acquainted, and always in my Lady's Room together, dressing and undressing her together, and I attended my Lady with her very often.

Q. Did Mrs. Heath ever tell you that my Lady was not with Child?

A. No, she did not, for I never ask'd her such a Question.

Q. What did she, from her Discourse to you, appear to think of my Lady?

The Question objected to.

Court.] Had you any other Discourse with her, about my Lady's being with Child?

A. No, indeed.

Mr. Robins.] Can you remember the words Mrs. Heath spoke to you?

A. I can't remember the words; but we used to Joke with my Lady; little common way of talking that way with my Lady; and Mrs. Heath and I went once to the Change to buy Muslin together, and there we were talking of my Lady; and Mrs. Heath knows very well of an Affair that happened to her and me there.

Q. What do you know of Mrs. Heath's Knowledge about my Lady's being with Child?

A. I've no more to say than that.

Q. What is that?

A. That she did know that my Lady was with Child.

Q. How do you know she knew it?

A. Because we joked about it, and we were praising my Lady, as it is the way of Waiting Maids to please their Ladies oftentimes, indeed it is.

Court.] My Lady, you say, was in Bride-street at Mr. Briscoe's when you dress'd her?

A. It was there my Lady was dress'd.

Q. You say that she was dress'd there, did she lodge there then?

A. No, at Mrs. Vice's, she came there in a Pett, because she had a falling-out with my Lord, she call'd Mr. Briscoe, Father, and came to him with all her Grievances.

Q. How did she come there?

A. In a long Velvet Hood and scarlet Cloak, Mrs. Heath came with the Box, a little blue Band-Box.

Q. And was it there that this jesting with her was?

A. There and at Mrs. Vice's too.

Mr. Robins.] Did you make any Observations about my Lady's Size?

A. She was a middling Woman, full breasted here, and swarthy.

Q. How did her Belly appear?

A. As a Woman with Child, and it was very easily seen.

Q. That was in November you saw her?

A. It was, when my Lord told me she was with Child; I saw it then, and I saw her all the time she was in Dublin.

Court.] Was she a broad Woman?

A. She was a full made Woman, very full breasted and high hipp'd.

Mr. Robins.] Did her Belly alter?

A. I never observ'd any way, but that she was growing big.

Court.] How soon did you see her again after she went from Dublin?

A. Never again.

Q. How long did she stay in Town from the first time you saw her?

A. I believe just before Christmas, or after, she went out of Town.

Q. Can you tell how long after you first saw her, it was that she stay'd in Town?

A. I can't indeed.

Q. Can you name the particular times you saw her?

A. I cannot.

Mr. Robins.] Did you ever see my Lady undress'd?

A. Twenty times, dress'd and undress'd.

Q. Who used to dress and undress her?

A. Mrs. Heath, and I with her, when she lodg'd at Captain Briscoe's.

Q. How did my Lady's Belly encrease?

A. That's a thing impossible for me to tell.

Q. Did you observe a Difference?

A. Yes, I did, that she rather grew bigger than otherwise.

CROSS EXAMINATION.

Mr. Resorder.] When did my Lady come to Captain Briscoe's first?

A. In the Year 1713, I believe in October.

Q. When did she go away from Briscoe's?

A. I think she went to the Country with my Lord just before or just after Christmas, I cannot tell exactly, in the Year 1713.

Q. Now, I ask you did she go from Briscoe's to the Country?

A. No, she did not; they went from Captain Briscoe's to Mrs. Vice's, for our House was too little, and my Lord had a vast number of People after him.

Q. How



Q. How long did they stay at Captain Briscoe's after their Reconciliation?

A. I don't know whether they staid four or five Days, I can't tell that itself.

Q. Did they stay two or three Days?

A. Two or three to be sure they did.

Q. And they went from your House to Vice's?

A. They went to Mrs. Vice's.

Q. When did my Lady return again to Dublin?

A. She came up the latter end of the Summer.

Q. What do you call the latter end of the Summer?

A. My Lady was in Dublin at August 1714 when the Queen died.

Q. Did you ever Dress my Lady but at Captain Briscoe's?

A. I never did at Mrs. Vice's.

Q. But at Briscoe's you did?

A. I dress'd her after she left Captain Briscoe's.

Q. When?

A. That Day that she came to our House that my Lord and she had a pique.

Q. Never but that time?

A. That was the time.

Q. And you did not undress her at Vice's?

A. I was then but a Stranger; when I went to Mrs. Vice's it was only to Visit her.

Q. Did you ever dress or undress her at Mrs. Vice's?

A. I never did.

Court.] I thought you said you dress'd her twenty times at Captain Briscoe's?

A. Yes, and so I did.

Q. When was that?

A. That was some time before Christmas, in short dirty Days; for before we had done Dinner it would be night.

Mr. Recorder.] So that the time you dress'd and undress'd her was about Christmas?

A. I can't justly tell the Month; it was in the short dirty Days.

Q. But was it in December?

A. I can't tell the Month. Is not it a long time to remember 30 Years?

Q. Was it after the Quarrel that my Lady came to Mr. Briscoe's House?

A. It was.

Q. When did that happen?

A. Before or after Christmas, I cannot tell the time.

Q. Do you know the reason of that Quarrel?

A. My Lord gave her a slap on the Face; Mrs. Heath knows.

Q. Was you by?

A. No, but my Lady said so.

Q. How long then did my Lady stay in Town?

A. She went out of Town in the Year 1713 before Christmas.

Q. When did she leave Town the second time?

A. Either just before or after Christmas she went from Mrs. Vice's to Dunmaine and I never heard of her since till now lately.

Q. Did you ever speak to Mrs. Heath about this big Belly?

A. Nothing but what I told you, I never ask'd her seriously.

Q. Did you ever put the Question to her whether my Lady was with Child or not?

A. No, I did not ask her seriously about it.

Q. Had you no other Discourse about it?

A. We had none but what I told you, and that was joking; telling and pleasing my Lady that she was with Child, and Mrs. Heath and I laughing, and pleased it was so.

Court.] Did you ever see my Lady after she went into the Country the second time?

A. Never after; and that was the Year 1714.

Mr. Recorder.] You say my Lady came to Town in August?

A. She was in Town in August.

Q. Did you see her in August?

A. I can't be positive to the Month.

Q. When you saw her in November was her Belly big?

A. Not very big.

Court.] Had you had a Child at that time?

A. No, but I was with Child, for I was married the 24th of August and quicken'd at that very time, and that makes me remember November.

Mr. Recorder.] Was my Lady's being with Child so visible in November, that any body might know she was with Child?

A. Indeed I believe so; I saw it I know.

Q. Did Miss Henrietta Briscoe visit my Lady at this time, in November?

A. I believe so, I know she came home before then and the Small-pox was at our House, and she left the House.

Q. What sort of Girl was Mrs. Cole then?

A. A pretty young Lady of a good Size.

Q. What Size?

A. Not so big or tall as she is now.

Q. Did she grow much afterwards?

A. To be sure she did.

Q. I ask you again, did not she grow much after?

A. She did.

Court.] Was you a Servant in the same House with her?

A. I was.

Mr. Recorder.] What age might she be then?

A. I can't justly tell you, she was not at her full growth.

Q. About what age do you think she was?

A. I can't tell. How can I tell?

Q. Was she thirteen, or fourteen, or twenty?

A. Twenty, no she was not Twenty.

Q. Was she fourteen?

A. Yes, to be sure she was.

Q. Did Mrs. Cole visit my Lady at that time?

A. They all visited her, and my Lady came constantly to our house; but she was at her Aunt Monck's at the Green because of the Small pox.

Q. Did she stay there all the time my Lady was in Town?

A. She used to come now and then.

Q. Was my Lord Altham in Town in August 1714?

A. Yes, he was along with my Lady.

Q. And was he here in November?

A. Yes he was in November; it was in November I saw him.

Q. Was it in November he told you that my Lady was with Child?

A. It was in November, after the Queen's Death that he told me my Lady was with Child.

Q. I



Q. I ask you, upon your Oath, again was my Lord in Town in August?

A. Yes he was. He was in Town all the while that my Lady was in Town.

Court.] They came to Town together?

A. Yes, they did, as well as I can remember.

Q. Now, you say my Lord came to Town in August; did not you swear upon the former Trial, that my Lord never was in Town from the time he went into the Country after the Reconciliation, 'till November 1714?

A. I assure you the Trial is not right, it is wrongly, falsely printed.

Jury.] Did you ever find the Lady out of Order, as Women commonly are, when they are with Child, when you were dressing and undressing her at Captain Briscoe's?

A. I never did.

Q. You say you thought she was with Child?

A. I did.

Q. Did you see her out of Order?

A. Yes, Sir, I saw her Big Belly.

Q. Did you put on her Shift?

A. I help'd to put it on, and her Stays too.

Court.] Call your next Witnesses.

6. MARY SUTTON.

Mr. Mac Manus.] The next Witness produced to your Lordship, is to the same Point, to prove my Lady Altham's being with Child.

Mr. Mac Manus.] Did you know the late Lord Altham?

Mary Sutton.] I did indeed.

Q. And the Lady Altham?

A. I did, upon my Word.

Q. Where do you live now?

A. In the County of Kilkenny.

Q. Where there?

A. In a Place call'd, *The Rowre*.

Q. Pray, Madam, were you ever at Dunmaine?

A. I was indeed once.

Q. Where did you live then?

A. In a Place call'd \_\_\_\_\_

Q. When did you first know Lady Altham?

A. I knew her when first she came to Dunmaine.

Q. What year was that in?

A. I can't exactly tell the year, but I knew her with Child and saw her with Child.

Q. What were you at that time?

A. I was a Farmer's Wife, living in the Neighbourhood.

Q. How came you to go to Dunmaine?

A. My Lord frequented my House and often invited me there.

Q. How far distant was your House from Dunmaine?

A. About two Miles.

Q. Did you ever Dine there?

A. I dined there that Day.

Q. What Day?

A. That one Day that I visited my Lady.

Q. Did any Thing particular happen that Day?

A. When I went in first, there was none but my Lord and Lady in the Room; I was glad of it, as I was but a Farmer's Wife, that there was no more Company; and after Dinner the Glasses

were laid round and a Bottle of Wine brought upon the Table. They call'd for my Lady's Toast first; and she toasted *Church and King*. They then call'd for mine, and I toasted the Boy in the Basket, meaning my Lady Altham's being with Child.

Q. Pray, can you recollect what year this was in?

A. I cannot well tell, but as well as I can remember, it was after the Queen died, for I was in Mourning for the Queen.

Q. Do you know of any Inquiry made by my Lady about hiring a Nurse?

A. After Dinner, as we were drinking the Wine, I sat by my Lady; and she said, Mrs. Sutton, as you are acquainted with the Country, can you recommend me to a good Nurse. I told her \_\_\_\_\_

Mr. Daly.] What she told my Lady Altham is no Evidence.

Mr. Mac Manus.] My Lord, this is very full Evidence; she's telling of a Conversation that pass'd between my Lady and herself concerning my Lady's being with Child, and her Inquiry after a Nurse.

Court.] Did you see Lady Altham at that time?

A. I did.

Q. What did you observe about her?

A. I observ'd her to be big with Child.

Q. When was this?

A. It was the Monday or Tuesday before Shrove-tide.

Q. In what Year?

A. I can't exactly tell the Year, but it was one of them two Days.

Mr. Mac Manus.] My Lord, I apprehend this Question to be a proper and material one.

Court.] The Question is, whether I'll examine the Witness to what my Lady said, whether she was with Child or not.

Mr. Serjeant Tisdall.] My Lord, any Circumstance of my Lady's making Baby-cloaths, or Inquiry about a Nurse, is Evidence to prove that she was with Child.

Court.] Not at all in this Case.

Mr. Mac Manus.] I apprehend that presumptive and circumstantial Evidence is the strongest Evidence that can be given in this Case.

Court.] You say that you have positive Witnesses to this Point; if you have, we shall readily hear them. Have you any other that are positive Testimony to Lady Altham's having a Child, or that she miscarried? The first Assignment of Perjury is whether Lady Altham ever was with Child while the Traverser liv'd with her. The Question then is, whether my Lady's saying she was with Child is Evidence upon that Point? If you will argue the Question, I'll hear you.

Court.] Might not the Woman appear to you to be with Child, and might not be so?

A. To all appearance she appeared to me to be so.

Q. And might not she be not with Child?

A. I can't tell, Sir, she appeared to me to be big with Child.

Q. Was it certain that she was?

A. There was so much certainty of it if one can believe their Eyes.

Q. Do you know that she hired a Nurse?

A. Indeed I don't know it; I can't say that.

F

Mr. Serjeant



Mr. Serjeant Tisdall.] My Lord, we apprehend we have a right to have this Question answered. The Question proposed is, whether she knows any Inquiry to be made by Lady *Altham* to hire a Nurse.

Mr. Daly.] Indeed if you had ask'd whether Mrs. *Heath* made such an Inquiry, there would be something legal in it, but Inquiries of a third Person are most illegal Evidence.

Court.] We are not trying the Filiation of this Family, who is heir to the Estate of it, but whether Mrs. *Heath* is guilty of Perjury. There is much more reason to keep to the strict Rules of Evidence in this Court than ever was; the time of Trial is short, and we cannot adjourn. Have you any real positive Evidence?

Mr. Mac Manus.] We have produced positive Evidence that my Lady appear'd to be with Child.

Q. Pray, Madam, in what degree did she appear to be with Child?

A. *Very big with Child.*

Mr. Mac Manus.] Why then the next natural Question is, whether there was an Inquiry about a Nurse.

Mr. Daly.] My Lord, is this a legal Question in this Case? I have not an opportunity to cross examine what a third Person says, and shall that be Evidence to deprive me of my Estate? Ask if Mrs. *Heath* made any Inquiry about a Nurse.

Mr. Serjeant Tisdall.] The Question proposed is, whether she knows of any Inquiry made by Lady *Altham* for hiring of a Nurse, of her own Knowledge.

Jury.] Do you, of your own Knowledge, know any thing of the hiring a Nurse.

A. No, Gentlemen, I do not.

Mr. Mac Manus.] Did my Lord and Lady ever visit you?

A. They did, upon my Word, and had the Child with them.

Q. What Child?

A. A Boy, Master *James* we call'd him.

Q. Pray, whose Child was it?

A. It was their Child in all appearance, for my Lady was very fond of the Child as any Mother could be.

Q. Give an account of what pass'd about that Child, as to any particular Instances of fondness?

Mr. Daly.] You can't ask that Question; it is *Res inter alios acta*, and foreign to this Woman's Prosecution.

Mr. Mac Manus.] Pray, how old was he?

A. I believe *a Year and half*, and if a Month more I can't exactly tell.

Q. When was this visit made you?

A. I can't exactly tell, it was a very fine Day.

A. What time of the Year was it?

A. In *Harvest*, the latter end of *Harvest*.

Q. How long was it between the time you saw my Lady with Child and the time you saw him at your House?

A. It was more than a Year.

Q. How old was the Child when you saw it?

A. It was *a Year and half* old when I saw it.

Court.] How did my Lord and Lady treat that Child?

A. As a Father and Mother would treat their Child; and my Lady was as fond of him as a Mother could be of a Child, kissing and embracing him and calling him, Dear.

Q. In what Year was that?

A. Nay, Faith, it is hard to tell.

Q. You must tell?

A. I believe the Child was born in the Year 1715, I think he was, as well as I can remember.

Q. What reason have you for thinking so?

A. By the latter end of *April* after I was to visit her, I heard next day that she was brought to Bed of a Son.

Q. Was you by at his Birth?

Q. I was not. I heard there was great Joy and Bonfires.

Q. Did you see the Bonfires?

A. No, I was not there.

Mr. Mac Manus.] How came they to bring so young a Child to your House?

A. When my Lady came, she said, Mrs. *Sutton*, since you would not bring your Daughter to see my son, I brought my Son to see your Daughter.

Mr. Recorder.] I insist that the Declaration of my Lady is no Evidence at all.

Court.] Gentlemen, we are of opinion that the Declaration of Lady *Altham* is not Evidence against Mrs. *Heath*, and therefore don't let us waste our time so to no purpose.

Mr. Solicitor.] We are mistaken if we would put the Declaration of Lady *Altham* as Evidence, but we have a right to know the Witness's apprehension of her Declaration.

Mr. Mac Manus.] This Witness has spoke very materially, that my Lady had a big Belly, and was with Child; I hope the Jury will take notice of it, that being one of the Assignments of the Perjury.

#### CROSS EXAMINATION.

Mr. R. Malone.] I think you have said that Lord *Altham* frequently invited you to *Dunmaine*?

A. He did.

Q. And you were never there but once?

A. Never but once.

Q. You said that no body was there in the Room but them two?

A. Yes.

Q. And that you were glad of it?

A. Yes.

Q. And that a Bottle of Wine and Glasses were brought and my Lady toasted Church and King?

A. I did.

Q. You gave a Toast after of the Boy in the Basket?

A. I did.

Q. Now I ask you, before your giving that Toast, was there any Conversation about her being with Child, or any thing said about it?

A. Not at all.

Q. Was you told in the Parlour that she was with Child?

A. Not at all; there was no Discourse of it but after.

Q. What Condition of Life was you in?

A. My Husband was a Farmer indeed.

Q. Who did he derive his interest under?

A. Madam *Pigott*.

Q. How much Land did he hold?

A. He paid 10 *l.* a Year to Madam *Pigott* at that Time.

Q. How



Q. How much Land had you ?  
 A. It was an old Lease, we held above 200 Acres.  
 Q. What was the Land worth an Acre ?  
 A. Why, really, at that time it might be worth four Shillings an Acre.  
 Q. You say that they frequently visited you ?  
 A. My Lord did, but my Lady never was there but once.  
 Q. When they visited you, what Time of the Year was it ?  
 A. As well as I can remember, the latter End of *Harvest*.  
 Q. Do you know the Year ?  
 A. I cannot tell.  
 Q. Was it the *Harvest* after you visited them ?  
 A. No, not at all.  
 Q. Was it more than one ?  
 A. It was more than one.  
 Q. Or two, three, or four after ?  
 A. O dear! it was not so much; the Child was about a Year and half old, or within a Month or two, I can't exactly tell.  
 Q. Can you say in what Reign it was ?  
 A. Really, I believe it was after Queen *Anne* died.  
 Q. In what manner did they go to your House ?  
 A. My Lady rode in the Chariot, and had a Maid that carried the Child, and my Lord rode with Servants.  
 Q. What was the Servant's Name in the Chariot ?  
 A. She was a good tight, clean, well-dress'd Girl, and that's all I know.  
 Q. In what manner was the Child dress'd ?  
 A. He had a red Coat, and cambrick Frock, and fine quarter'd Cap, and I think, a red Ribband in it.  
 Q. Was it a Coat and Breeches ?  
 A. Not a Coat and Breeches; a Frock.  
 Q. Where do you live now ?  
 A. I live now in the County of *Kilkenny*.  
 Q. Where there ?  
 A. In the Parish of *Rowree*, at *Ballyvally*.  
 Q. Is your Husband living ?  
 A. My Husband is not living.  
 Q. Do you live by yourself there ?  
 A. I live with my Daughter, and we live under my Lord *Mountgarret*.  
 Q. What *Harvest* is this you speak of when my Lord and Lady went to your House ?  
 A. It is so long ago, 'tis hard to know, I must study a while to think of it.  
 Q. How can you recollect to the being at *Dunmaine* to a Day, and not now recollect the Year they went to see you ?  
 A. As it did not meddle with me, I did not mind it.  
 Jury.] Do you know any thing of Mrs. *Heath* ?  
 A. I never had any Acquaintance with her, I heard my Lady had such a Woman.  
 Court.] Who do you call next ?  
 Mr. *Callaghan*.] My Lord, we will now produce one *Evan Thomas*; he is a *Basket-maker*; he saw my Lady with Child, saw her increase in her Pregnancy, and made the Cradle after she was brought to bed, and was paid for it.

7. EVAN THOMAS.

Mr. *Callaghan*.] Pray, did you know the late Lord *Altham* ?  
 Evan *Thomas*.] Yes, and please you.  
 Q. Did you know my Lady ?  
 A. I knew her very well.  
 Q. Where did you live in the Year 1713 ?

A. In that Year I liv'd in *Ros*.  
 Q. Where did you live in 1714 ?  
 A. I work'd in *Ros* the most of the Year 1714.  
 Q. Did you see my Lady in those two Years ?  
 A. I've seen her at our Church some several times, in the Year 1714, I've seen her there, to the best of my Knowledge.  
 Q. How often did you see her there ?  
 A. I seen her two or three times, to the best of my Knowledge, but she might be there oftner for any Thing I know.  
 Q. Did she appear to be a slender Woman, or with Child ?  
 A. She appear'd to me as if with Child, to the best of my Knowledge.  
 Q. Did she appear to be big with Child ?  
 A. Not so very big because of their Hoops, I saw her handed into the Coach, or the Chariot, or one of them.  
 Q. What Trade do you follow ?  
 A. I am one that makes all Sorts of Basket Work that are made in the Kingdom.  
 Mr. *Daly*.] What, all Sorts of Basket Work ?  
 A. I don't say the best of all Sorts.  
 Mr. *Callaghan*.] Did you ever do any Work for Lady *Altham* ?  
 A. I did.  
 Q. Tell what it was ?  
 A. She sent a Servant to me.  
 Court.] How do you know she sent him ?  
 A. He told me. —  
 Q. Did you carry any Work to her House ?  
 A. I did not.  
 Q. What was it you made ?  
 A. I made in the Year 1715, to the best of my Knowledge, a Cradle.  
 Q. Did you carry it to Lord *Altham*'s House ?  
 A. No, please your Lordship, I did not.  
 Q. Who did you deliver it to ?  
 A. I delivered it to a Man.  
 Q. Name him ?  
 A. They told me he was one *Rowley*, a House Steward.  
 Q. Did you know him ?  
 A. I was nothing acquainted with the Man, but he told me —  
 Q. Do you make the same kind of Cradles for poor People as for People of Fashion, what sort of Cradle was it ?  
 A. A good Cradle, I deliver'd it to the Servant, as I suppose his Name was *Rowley*, I was told so.  
 Q. Did you see the Cradle carried to any particular Place ?  
 A. No, he took it from me out of the House, and gave me two Crowns for it.  
 Jury.] What became of the Cradle ?  
 A. I don't know, but he took it away.  
 Court.] Where is *Rowley* ?  
 A. I don't know.  
 Mr. *Callaghan*.] For whom did you make that Cradle ?  
 A. Why, the Man came to me —  
 Q. Do you know who you made it for ?  
 A. He bespoke it for my Lady *Altham*.  
 Mr. *Harward*.] It is strange to my Imagination, my Lord, that it should be suspected, that a Man employed 30 Years ago, to make a Cradle, could be guilty of any Contrivance.  
 Court.] But this Contrivance may be within these four Months, these six Months, or these twelve Months, and if hearsay Evidence will convict a Person of any Crime, it may of Treason, and who is or can be safe ?

Mr. Justice



Mr. Justice Blennerhasset.] If you have *Rowley*, there would be something.

Mr. Harward.] With Submission, my Lord, the Court cannot know whether we are out of the way or not; whatever Secrets are in this Cause are only revealed to us by the Managers of it, and we advise them in the best manner we can to prosecute it.

Court.] As the Time is far spent, we only beg of you to go on in your own way. Call your next Witness.

## 8. MARTHA TENANT.

Mr. Harding.] My Lord, I am instructed that this Witness was in Company with Lord and Lady *Altham* the Winter after the Queen's death, and saw my Lady with Child, and that she was quick with Child at that Time.

Court.] I never heard that there was safety in a multitude of Witnesses; I have heard it, read it, and you know it, that in a multitude of Counsellours there was Safety, but never in a multiplicity of Witnesses.

Mr. Solicitor.] For my part, my Lord, I think we have established very fully the first part of this Indictment, not to take up any more Time; but Curiosity makes People glad to see the Bottom of it.

Mr. Harding.] Pray, did you know *Arthur* late Lord *Altham*?

Martha Tenant.] I did not know him, I saw him once, and to my Knowledge never since, nor before.

Q. Did you know his Wife?

A. I saw her at the same Time at dinner?

Q. Where did you see them, and when?

A. I saw them at one *Arthur French's* in *Fleet-street*, they lodg'd in *Fleet-street*.

Q. When was it you saw them there?

A. I'll tell you how I came to visit there.—

Q. What Year was it you saw them there?

A. Well! I can't justly tell the Year, but it was about the Time that they were *Whig* and *Tory* and that way.

Q. Pray, recollect yourself?

A. I believe it is about ——— I cannot exactly tell; I believe the Year Queen *Anne* died, there or thereabouts.

Q. Was it before or after the Queen's death?

A. And that I can't tell you neither, but I'll tell you the Time of the Year, it was about Christmas, but I can't tell whether 1714, or 1715.

Q. Did you observe whether my Lady was or was not with Child?

A. I'll tell you what brought me there, the whole Truth is this. Mr. *French*, every one knew, married my Lady *Davis's* Daughter, and she was a Relation of mine; and upon the Marriage I entrusted him Money, and went to dunn him, and when I came there I saw a great Dinner and Preparations making, and ask'd the Reason of it, says I, what's the meaning of all these Doings and you have not got your Wife's Fortune into your Hands yet, it is very ill done of you.—

Q. Tell what you know of Lady *Altham* there? Tell what you know yourself?

A. I'll tell you all I know myself. I stayed there, and when dinner was over I was in the Drawing-room, my Lady *Altham* as they said she was.

Q. Did you know her?

A. Not I indeed.

Q. Can you say it was her?

A. They said it was.

Q. But you must only say what you know?

A. Well, I can't tell you any more then.

Q. Did any remarkable incident happen while you were at Dinner there?

Court.] Did she take the Title of Lady *Altham*?

A. She did, and my Lord was there.

Q. Did you ever see them before?

A. I never saw them before or after, nor knew none of those Lords or Ladies.

Mr. Harding.] What sort of a Woman was she?

A. A *Lusty Woman*, but my Lord had two Eyes at that time, and they say he had but one after.

Q. What did you observe of my Lady that Day?

A. She came out after Dinner and was sick, she came into the Drawing Room and they unlaced her.

Court.] Who?

A. My Lady *Altham*, she was call'd so.

Mr. Harding.] Inform the Court and the Jury, whether any remarkable incident happen'd while you were at Dinner there?

A. She was taken Sick after Dinner and came out into the Drawing Room and we unlaced her, and my Lord said, Mrs. *French*, it will be your turn soon to be in the same Condition; and that's all I had to say.

Q. What was the occasion of his saying so?

A. The occasion was that Mrs. *French* was a new married Woman.

Mr. Recorder.] She says she did not know either Lord or Lady.

M. Tenant.] Nor the young Man, nor the old Man.

Mr. Harding.] Inform the Court, whether any Body fainted away, and whether any account was given of that?

A. My Lady was Sick and unlaced, and my Lord said, Mrs. *French*, it will be your turn next, and that's all I know.

## 9. ANASTACE TOOLE.

Mr. Morton.] We produce this Witness, my Lord, who is a *Mantua Maker* by Trade, to prove that she made a Silk Gown for Lady *Altham*, and fitted it on in the Presence of the Traverser, and that my Lady was then with Child.

Mr. Morton.] Did you know my Lady *Altham*?

Anastace Toole.] I did, Sir.

Q. What Business did you follow?

A. *Mantua-making*.

Q. Were you at any time and when employed by her to do any Work for her?

A. I liv'd with Mrs. *Wright* the Year that Queen *Anne* died, for my Husband went to live in the County of *Carlow*; I went to her the latter end of the Year 1714, Queen *Anne* died in *August*, and the Candlemas following—

Q. What Year?

A. The Candlemas after Queen *Anne* died. And my Mistress sent me with the Coat.

Q. To what Place?

A. To *Dunmaine*.

Q. What



Q. What did you observe, when you went there ?

A. That her Ladyship was *big-bellied*.

Q. Did you ever fit any Gown upon her ?

A. I did.

Q. Who was present when you fitted the Gown ?

A. Her own Maid, Mrs. Heath.

Q. Would you know her, if you saw her ?

A. Yes, that is she, I believe.

Q. Now, Pray, what condition did my Lady appear to be in then ?

A. Her Ladyship seem'd to be in her last Quarter, or pretty nigh it, for she was a tall Woman, and carried her Belly very well.

Court.] You observ'd that she was big-bellied ?

A. I did.

Q. Had you had a Child at that time ?

A. I had had a Child and had buried it.

Q. Was you an Apprentice Girl then ?

A. No, my Husband was gone to Mr. Wall's in the County of Carlow, and I work'd with Mrs. Wright.

Mr. Morton.] Was you married at that time ?

A. Yes, Sir, I was.

Q. You were not an Apprentice ?

A. I was not.

Q. Do you know any more of my Lady's being with Child ?

A. I saw my Lady in *Rofs* with the Child, and made a Coat for the Child.

Q. How long was it after, that you saw the Child in *Rofs* ?

A. I can't tell how long.

Q. Who gave you the stuff to make the Coat for the Child ?

A. My Lord himself, he bought it at Mr. Hervey's.

Q. What stuff was it ?

A. One side was a blue Sattin and the other a Yellow.

Q. How long after you fitted the Gown on my Lady was it that you saw this Child at *Rofs* ?

A. After my Lady came to my Mistress to lodge in *Rofs*.

Q. Was it three Months, or four Months, or six Months ?

A. Oh ! it was more to be sure.

Q. Can you tell how long ?

A. I can't tell more than what I know.

Q. Was it a Year after you fitted the Gown that you saw the Child in *Rofs* ?

A. It was.

Q. Was it any more ?

A. Indeed I can't justly tell you, as to that part of the Story.

Q. Was Mrs. Heath present when you fitted on the Gown ?

A. She was by, and gave me a piece of white Ribband to tie the Shoulders of it.

Q. Had my Lady left my Lord at this time when you made the Gown for the Child ?

A. She had.

Q. Was it a new Gown you made for my Lady, or did you alter an old one ?

A. It was a new one, a new white Damask.

Q. How often did you see the Child, and where ?

A. Never but once.

Q. Where was that ?

A. At my Mistress Wright's.

Q. Where is that ?

A. At her own House in *Rofs*.

Q. Was that before or after the Coat was made for him ?

A. It was after.

Q. Did you never see him before ?

A. I never saw him before, but that one time.

Court.] Did you see the Child at the time my Lord gave you the Silk to make the Coat ?

A. No, my Lord, I did not.

CROSS EXAMINATION:

Mr. Recorder.] How long after you made the Gown was it you saw a Child ?

A. I can't justly tell how long.

Q. Did not you say it was a Year ?

A. I believe it was.

Q. Was it more, a Year and half, or two Years ?

A. I can't tell whether a Year and half, or two Years.

Q. Was the Child weaned ?

A. He was at that time.

Q. I ask you, upon your Oath, was it two Years after you made the Gown ?

A. I cannot justly tell you how long ; it was two Months after my Lord gave me the Silk.

Q. But I must know how long after you made the Gown for my Lady ?

A. I can't tell that.

Q. When was it that my Lord gave you the Gown for the Child ?

A. After my Lady came to *Rofs*.

Q. When did she come to *Rofs* ?

A. I don't know when she came to it ; I know she came on a Sunday Evening.

Q. Where did she lodge when you saw the Child ?

A. She lodg'd at *Rofs* then.

Q. Where there ?

A. At Mrs. Wright's.

Q. Did you hear of the Separation of my Lord and Lady ?

A. I did.

Q. Was it before or after they parted that you saw this Child at Mrs. Wright's.

A. It was after they parted.

Q. Who brought him to Wright's ?

A. I can't tell who brought him.

Q. Did my Lady lodge at any other place before she went to Wright's ?

A. Yes.

Q. Where and how long ?

A. At Captain Butler's, I believe six Weeks or two Months.

Q. Where did she go from Captain Butler's ?

A. She then came to my Mistress's.

Q. How long did she stay there ?

A. To the best of my Knowledge, a Twelve-month.

Q. When was it that this Child came ?

A. After she had been a considerable time at Mrs. Wright's.

Q. How long ?

A. I can't tell how long.

Q. How old was he ?

A. About two Years old.

G

Q. Was



Q. Was it half a Year after my Lady came to Wright's that you saw the Child?

A. I can't justly tell you.

Q. Do you know Mrs. Heath?

A. I've seen her before; yes, I know her.

Q. Where was the first time you saw her?

A. The first time I saw her was at Dunmaine, and every Day after she came to lodge at my Mistress's.

Jury.] You say you saw a Child at Wright's about two Years old?

A. I did.

Q. Whose Child was it you saw there?

A. My Lady's, Sir.

Q. Who told you it was my Lady's Child?

A. My Mistress, Mrs. Wright.

Q. Did my Lady herself tell you it was her Child?

A. I had no Conversation with my Lady. I was working at Doctor Elliot's on the other side of the Way—

Court.] Are you going, Gentlemen, to the same Point?

Mr. Mac Manus.] I believe, my Lord, every Evidence that goes to the first Point, will go to the second.

Mr. Serj. Marshall.] The next Evidence that we shall produce is Anne Bennet; she was a Servant to Mrs. Giffard of Ballysop, a Lady who appeared at the former Trial; she liv'd with her some Years, and often saw my Lady with Child, and heard her Mistress talk of her being big bellied.

#### 10. ANNE BENNET.

Mr. Serj. Marshall.] Did you know Lord and Lady Altham?

Anne Bennet.] Yes, I did.

Q. When did you know them?

A. The latter end of the Year 1714.

Q. Where did they live when you knew them?

A. In Dunmaine.

Q. And where did you live then?

A. I liv'd at Ballysop.

Q. With whom there?

A. Mrs. Giffard.

Q. Can you say in what Circumstances Lady Altham was, in respect to her Health when you knew her?

A. When I saw her first of all, Gentlemen, it was about Christmas time, whether before or after I can't tell; and the next time it was after Christmas, and she look'd pretty round; and I said to my Mistress, had my Lord and Lady never a Child? No, says she, she never had.—

Court.] Did you see my Lady with Child?

A. I thought she look'd very round, my Lord.

Q. Can you say whether she was with Child, or not?

A. Indeed I believe in my Heart she was.

Q. For what Reason did you think so?

A. Because I was the Mother of a Child myself, and knew how she was, she took a distaste to Victuals at the Table.

Q. How old was you then?

A. Twenty years of Age, I was the Mother of a Child, and a married Woman too.

Q. You don't appear now to have been that Age at that Time?

A. Indeed, then I'm fifty two years of Age.

Q. Do you know any more than that?

A. No.

#### CROSS EXAMINATION.

Mr. Le Hunte.] You say you liv'd with Mrs. Giffard?

A. I did.

Q. How often did my Lady Altham visit Mrs. Giffard?

A. She visited three times while I was there.

Q. And how often did your Mistress visit my Lady?

A. She visited my Lady twice.

Q. Was there any great Intimacy between them?

A. There was no great Intimacy, more than that.

Q. Did your Mistress lie-in while you were in the Service?

A. She never did, nor I don't believe she had a Child after I left her.

Q. When did you leave her?

A. I left her in February, 1714.

Q. And how long before had she had a Child?

A. I can't tell, the Child was running about.

Q. Was she with Child in your Time?

A. I can't tell whether she was with Child, for I did not wash for her.

Mr. Serj. Marshall.] What Reason had you to induce you to believe Lady Altham was with Child?

A. Because she took a distaste against Victuals and was very round.

Q. Did you see her after in any Place?

A. Never saw her before or after.

Court.] Who do you call next?

Mr. Solicitor.] I have taken up a Witness, one Edmond Howletts, who brings the Matter directly home to the Traverfer. My Lord, he is a Pedlar, a Man that sells Diaper, and other Cloths about the Country, and he will shew that she bought Diaper for the Child's Use just before the Birth.

Mr. Edmond Malone.] Every one knows that the material Perjury is the Birth, and if they had not a mind to raise a Dust, they would go to that directly.

#### 11. EDMOND HOWLETTS.

Mr. Solicitor General.] Did you know my Lord and Lady Altham?

Edmond Howletts.] Yes, I did, Sir.

Q. Do you know any thing of a Child that they had?

A. Yes, I did, Sir.

Q. Give an Account of what you know about it.

A. The first Time I was resorting that House with Goods on my Back, and the first I sold there, there was a Woman there, a waiting-maid, they call'd Mrs. Heath.

Q. Do you know her?

A. I don't know whether I would or no.

Q. Well, go on and tell your Story?

A. And she bought a Piece of Diaper from me for my Lady's Service against her lying-in. There's a Brogue upon my Tongue, Sir, I can't speak very proper.

Q. What did she buy the Diaper for?

A. The Diaper was provided for lying-in, for Clouts.

Q. For whose lying-in?

A. Lady Altham's.

Q. Who



Q. Who told you so ?  
 A. The Woman they call'd Mrs. Heath.  
 Q. Would you know her if you were to see her ?  
 A. I did not see her these many Years.  
 Q. Do you know that Gentlewoman there ?  
 A. She's fatter now than she was at that time.  
 Q. Is that she ?  
 A. Why, Sir, I could not swear.  
 Q. Is that Woman like her ?  
 A. Why then, she's like her sure enough, to the best of my Knowledge.  
 Q. How often did you see her before that time ?  
 A. Several times after that.  
 Q. What time was that, recollect as near as you can.  
 A. Why then, Sir, it was a little after Christmas.  
 Q. What Year ?  
 A. I believe it is *thirty* years now to the best of my Knowledge.  
 Q. Do you keep any Book of your Business ?  
 A. I don't keep a Book, nor I don't know how.  
 Q. What Goods did you carry to sell ?  
 A. I carried *Linnen Cloths*, and *Cambricks*, and *Holland*, and *Handkerchiefs*.  
 Q. Do you follow that Trade now ?  
 A. I left off that Trade about seven years ago.  
 Q. How long did you follow it ?  
 A. I followed it *five* and *thirty* years, and I was a Customer at that House that time.  
 Q. Did you see any thing relating to this Child at any time after that ?  
 A. After that, I was there, Sir, and my Lady *Altham*, and her Maid, and the Nurse and the Child were coming out of the *Pleasure-Garden*, and when they saw me they went back, and they bad me come in and open my Pack there ; and my Lady bad the Nurse ask what she would have, and said, Mrs. Heath, we'll see if he has a white silk Hood or Handkerchief, and she bought a white Silk Handkerchief, and red Border about it.  
 Q. Was it bought for the Nurse ?  
 A. It was.  
 Q. Who bought it ?  
 A. Mrs. Heath cut it off of my piece and paid me the Money that my Lady gave to her.  
 A. And who gave it to the Nurse ?  
 A. Mrs. Heath gave it to the Nurse before my Face, and my Lady bought a Ribband, and Mrs. Heath put it on the Child.  
 Q. Pray, give an account do you know any thing else about the Child ? Do you remember that my Lord and Lady parted ?  
 A. They parted to my Sorrow, Sir.  
 Q. How so ?  
 A. There was Four Pounds two Shillings due to me : my Lady bought a piece of *Holland* for Five Pounds Five Shillings, and she gave me a Guinea in part ; and the Day the Dispute came between them I was going that Way about some affair of my own, and I heard of it within half a mile of *Dunmaine*.  
 Q. How far did you live from *Dunmaine* ?  
 A. About two Mile I liv'd from them ; and I was going about my Business, and I heard the Noise, there was a great deal to do, and on Account of my Money due to me, I went to the House to see after it, if I could get it, and when

I came near the House all the Servants were going to and fro, and I was looking on them, and I saw my Lady in a Coach or Chariot, I don't know which it was, God forbid I should wrong my own Soul.

Court.] Take care that you don't ; have a care what you say.

E. Howletts.] I stood there, and saw my Lady and Mrs. Heath and the Child in the Coach. My Lord came down Stairs in a great Passion and ask'd *where was the Child*, and some of the Servants said, *my Lady has it in the Coach*, and just as he was going to throw down every thing about him, *he took the Child from her*. And my Lady said, *Pray, my Lord, did not you give me your word and honour that you would let the Child go with me wheresoever I'd go*, says she ; and took her white Silk Handkerchief out of the place where it was, and wiped her Face, and *kissed the Child at parting*.

Q. Did you see Mrs. Heath there, was she present at this Transaction, or was she not ?

A. She was the same person that was with my Lady *Altham* that Day.

Court.] Did the Child go in the Coach ?

A. Not at all, Sir.

Jury.] What Day was it that this happen'd ?

A. To the best of my Knowledge, it was *Sunday*.

Q. I ask you the Day of the Month ?

A. I don't keep the Month at all, I'm no Scholar.

Q. What Time of the Day was it ?

A. To the best of my Knowledge, about *Ten* or *Eleven* o'Clock in the Morning.

Q. Was it a Coach or a Chariot ?

A. I can't tell.

CROSS EXAMINATION.

Mr. Spring.] How long have you been a Dealer in the Linnen Trade ?

E. Howletts.] I believe these *five* and *thirty* years.

Q. How old are you ?

A. I'm *five* and *fifty* years old.

Q. Where did you live at the time you saw this Child ?

A. At *Ballyteskin* within three Miles of *Ross*.

Q. Where in 1713 did you live ?

A. I can't tell ; I'm no Scholar.

Q. Where in the year 1718 ?

A. I can't tell that year ; I don't understand your Years that Way.

Q. Where did you live *twenty* years ago ?

A. In the Town of *Ross*.

Q. Do you know one *Elenor Murphy* ?

A. I did, Sir.

Q. What Relation is she to you ?

A. I have one *Nelly Murphy* a *Sister* of mine.

Q. How long has she been married ?

A. I believe she's married these *twenty* years, or near it.

Q. Is not she married *thirty* Years ?

A. I can't tell whether she be or no.

Q. Is she married *nine* and *twenty* Years ?

A. Indeed I can't tell, Sir, whether she be or no ; I was not by when she was married, she married in the County of *Dublin* here.

Q. What



Q. What Name did she go by thirty Years ago?

A. Only her own Name.

Q. What was that?

A. *Howletts*.

A. What Name did she go by nine and twenty Years ago?

A. I believe *Howletts*.

Q. Can you write or read?

A. No I can't, Sir, and I'm sorry for it.

Q. Was you ever *Agent* to any Gentleman in the County of *Wexford*?

A. I am after looking after some Land belonging to Mr. *Baily*.

Q. Was you ever *Agent* to him?

A. No.

Q. Did you ever make an Affidavit by the name of *Agent* to Mr. *Benjamin Baily*?

A. Hah!

Q. Did you ever call yourself *Agent*?

A. My Lord, it was a Mistake if I called myself so.

Q. Who drew that Affidavit for you?

A. I can't tell any such thing.

Court.] Now tell me truly, who wrote that Affidavit? Did you make an Affidavit?

A. Only what I swore before the Commissioners.

Q. Who were they?

A. Upon my Word, I can't tell.

Mr. Spring.] Was there a Paper wrote for you to swear, or put your Mark to it?

A. Hah!

Q. Did not you Swear an Affidavit before Dr. *Stopford* in *August* last?

A. Yes, I don't know but I did.

Q. But you know whether you did or not?

A. Why, I believe I did.

Q. Was it read to you before you Swore it?

A. It was read to me sure enough.

Q. Who read it?

A. There was a Gentleman there.

Q. What's his Name?

A. Some-body belonging to Mr. *Annesley*.

Q. What's his Name, Man?

A. Upon my Word, I can't tell.

Q. Upon your Oath, who was he?

A. Upon my Word, I can't tell the Person.

Court.] Gentlemen, this Man was ask'd whether he made an Affidavit by the Name of *Agent* to one Mr. *Baily*, he would not answer for a great while, but seem'd to prevaricate, and at last said it was a Mistake if he called himself an *Agent*. He then was ask'd if the Affidavit was read to him, and after some Hesitation own'd it was read, but does not say by whom, but says he was sworn by Dr. *Stopford*, in *August* last.

Mr. Spring.] Upon your Oath, Sir, who was it that read the Affidavit to you?

A. I can't tell you, upon my Oath.

Q. Was it drawn in *Dublin* or the County of *Wexford*?

A. To the best of my Knowledge, in *Dublin*.

Q. Where was it drawn?

A. I told you all I had to say.

Q. Who wrote it for you?

A. If I knew that, I would tell you. There was a Clerk there.

Q. Who was he?

A. Somebody that was belonging to Mr. *Annesley*.

Q. Did you tell all you knew in the County of *Wexford*, or City of *Dublin*?

A. In *Dublin*.

Q. Did you likewise tell it in the County of *Wexford*?

A. I did not 'till I told it here.

Q. Was your Affidavit read to you?

A. Yes it was.

Q. Who read it?

A. I can't tell.

Q. Were you there call'd *Agent* to any body and whom?

A. It was a Mistake, if I was.

Q. Was you call'd so, or not?

A. I told them I minded some Land belonging to Mr. *Baily*.

Court.] Did they call you *Agent*, or not?

A. To the best of my Knowledge, they did not call me so. All the World knows I was no fit Man to be an *Agent* to a Gentleman.

Mr. Spring.] Had the Coach two Wheels or four Wheels you saw my Lady go away in?

A. There was four Wheels.

Q. Was it open like a Chair, or close?

A. It was close.

Q. Do you know the Difference between a Coach and a Chariot?

A. I can't tell the Difference.

Q. You say it was not open?

A. I know it was not open.

Q. How many Horses were there?

A. I can't tell, I think there were four or two, I can't tell which.

Q. Was it Four, or Two, or Six?

A. Two or Four, I can't tell which.

Q. Who was Coachman?

A. One *Dennis Cauntton*.

Q. How many Brothers and Sisters have you that are Witnesses in this Cause? Have you ever a Sister that liv'd with one *Macnamee*?

A. I can't tell whether it was or no.

Q. Did your Sister *Elenor Murphy* live with *Macnamee*?

A. I can't tell whether it was or not.

Q. Do you know any Body she liv'd with?

A. It was from Captain *Butler's* at *Ross* that she went to Lord *Attham's*.

Q. Do you know the time that she went there?

A. Indeed, if I had known this Trouble, I would know a great deal more of it.

Q. Was it before or after you sold the Linnen that your Sister went to the Service?

A. She was not there the first Time I sold the *Clouts*, and she went there a little after.

Court.] Did you travel the Kingdom round with your Linnens?

A. Only the County of *Wexford*.

Court.] I'm surpriz'd then, that you don't know the Difference between a Coach and a Chariot.

Mr. Spring.] Do you know the great Eclipse of the Sun?

A. I do.

Q. Where did you live then?

A. I liv'd then at *Ballyteskin*. I don't know but I was in the House of *Dunmaine* that Day, and coming home within half a Mile of my own House when the Eclipse came upon me.

Q. Was



Q. Was not you in *Dunmaine* House that Day?  
A. I'm not sure I was there; I was very near them I'm sure in the Road home.

Q. Say upon your Oath, whether you were not in the House of *Dunmaine* the Day of that Eclipse?

A. I can't tell whether I was or not.

Q. Was it before or after that Eclipse that your Sister went to live there?

A. Why, it is about *May* the Eclipse came, or the latter end of *April*, it was before that she went to live there; it was before.

Q. Where did she go to live after she left Lord *Altham's*?

A. I think to one *Frank White*.

Q. And where from thence?

A. The time she left Lord *Altham's* she went to her own Father's.

Court.] This Witness has sworn very materially, if he has sworn true.

Mr. Serj. Marshall.] The next Witness I am instructed to produce is one *Newton Ricketts*, a Coach-maker, and he'll prove to your Lordship that Lady *Altham* was very big with Child, that he after was at *Dunmaine* and employed by Lord *Altham* to make a four-wheel'd Chaise, and at the same time my Lady employed him to make a little Chair for the Child.

12. NEWTON RICKETTS.

Mr. Serj. Marshall.] Did you know *Arthur* late Lord *Altham*?

Newton Ricketts.] I did.

Q. Did you know his Lady?

A. I did see her, Sir, and was acquainted with her by Name.

Q. Where did you see Lady *Altham*?

A. I saw her at *Dunmaine*.

Q. Can you recollect at what time you saw her there?

A. About *two* and *thirty* or *one* and *thirty* Years ago.

Q. Which was it?

A. It is *two* and *thirty* Years ago.

Q. How long was you acquainted with her at *Dunmaine*?

A. I was acquainted with her for *three* Years.

Q. Recollect as near as you can, how long ago it is?

A. It was *three* and *thirty* or *two* and *thirty* Years ago.

Q. Do you recollect when *Queen Anne* died?

A. I don't know how long ago it is.

Q. Can you be sure how long it is since you knew my Lady at *Dunmaine*?

A. I think it is *one* and *thirty* Years, I can't remember the Years, or Months, or Weeks.

Q. What Trade do you profess, Friend?

A. I profess to be *Wheel-wright* and *Coach-maker*.

Q. Were you ever employ'd by Lord *Altham*, and when?

A. Oftentimes, for two or three Years working at the House from time to time.

Q. Did you do any particular Piece of Work for him?

A. I made a little Toy Chair for a Child that was there, that was call'd Master *James Annesley* that time in the House.

Q. Who bespoke that Chair?

A. The Lord *Altham* desired I should make it, and my Lady and he both came to the Coach-

House where I used to work, and desired me to make it.

Q. Where was my Lady at that time?

A. At *Dunmaine*.

Q. Was it he or she that ordered you to make the Chair for the Child?

A. My Lord directed me to make it at the time my Lady was at *Dunmaine*.

Jury.] Did my Lord speak to you himself?

A. He spoke to me himself.

Court.] Did he tell you whose Child this was?

A. I never ask Questions when I go to Gentlemen's Houses; when I see Masters and Misses, I guess they are their own.

Mr. Serj. Marshall.] Whose Child did you take it to be?

A. The Lord and Lady *Altham's* Child.

Q. What did my Lord *Altham* call him?

A. He call'd him *Femmy Annesley*.

Q. How was the Child dress'd?

A. Dress'd as a Gentleman's Son, or young Master should be dress'd.

Q. Did you see the Child frequently?

A. I saw him very often at *Dunmaine*, and at several Places besides.

Q. How did my Lady behave to the Child?

A. I think as a Mother behaves to a Child.

Mr. Smith.] Her Behaviour is not more material than her Words. Words are expressive, but Behaviour doubtful.

CROSS EXAMINATION.

Mr. Daily.] How many Years ago is it since this Chair was bespoke?

A. I believe about *eight* and *twenty* and a half; *eight* and *twenty* and *six* Months or *nine* and *twenty*, I can't tell indeed which.

Q. Did you see the Child at that time for whom it was to be made?

A. I seen the Child; I did, Sir.

Q. Could he walk?

A. He just began to walk that time, about a Year and half, or quarter old.

Q. In whose Care was he?

A. One *Joan Laffan* took Care of him, I believe.

Q. You'll consider at the Time this Chair was bespoke from you, the Child was in the Care of *Joan Laffan*?

A. Yes, *Joan Laffan* took care of it, I think.

Q. Pray, will you tell me another thing, can you name any Servant in the House at that time?

A. I believe there was one *Martin Nieff* and *Anthony Dyer*, and some other Servants that are dead and gone.

Q. Was *Nieff* present?

A. I believe he was, and *Charles Magher*.

Mr. Serj. Marshall.] Are you sure of that?

A. I'm sure, I think they were.

Q. And *Joan Laffan* was the Person that took Care of the Child?

A. I think she did.

Mr. Daly.] Do you know one Mr. *George Nixon* of *Newtown* in the County of *Wexford*?

A. I do.

Q. Now I ask you, upon your Oath, had you any Discourse with him concerning the Birth of this Child?

A. Upon my Oath, I don't remember it.

Q. Had you with Mr. *Henry Miller*?

A. I don't remember I had.

Q. What Age are you?

A. I'm *four* and *fifty* and *odds*.

H

Q. What



Q. What Age was you at the Time of making the Chair?

A. I was *twenty four* Years of Age.

Q. Did you work for yourself then?

A. Aye, and for my Father.

Q. Where have you liv'd ever since?

A. Within four miles of *Wexford*.

Q. The name of the Place.

A. *Bretherty*.

13. ELIZABETH DOYLE.

Mr. Serjeant Tisdall.] Did you know Lady *Altham*?

Elizabeth Doyle.] Yes.

Q. Where did you see her?

A. At *Dunmaine*.

Q. Did you observe any thing particular about her?

A. I observ'd that she was with Child.

Q. How do you know that?

A. By her big Belly.

Q. What time was this?

A. In *March*.

Q. What Year?

A. About the time of the *Queen's Death*.

Q. Was it before or after the Queen died?

A. After.

Q. Have you no other reason to know my Lady was with Child?

A. Yes, she hired my Mother to Nurse the Child.

Q. Was you by?

A. Yes I was.

Q. Did your Mother Nurse the Child?

A. No, she took a Fever, and could not Nurse the Child.

Q. Where was it that my Lady agreed with her?

A. At *Dunmaine*.

Q. Who nurs'd the Child after, do you know?

A. I can't tell, Sir, of my own Knowledge.

Q. Do you know Mrs. Heath?

A. I don't know Mrs. Heath; my Lady desired one *Mary* to bring a Glas of Wine to my Mother, and that's all that I know.

Q. Was any body present but you when your Mother was hired?

A. I remember no body but my Lord and Lady.

Q. Was my Lord by?

A. Yes, Sir, he was.

Q. What was your Mother's Name?

A. My Mother's name was *Elizabeth Richardson*, and my Father's *William*.

Q. What was your Father?

A. He made Bricks for my Lord, and for Esquire *Loftus* and a great many Gentlemen.

Q. Where was you born?

A. I was born in *Waterford*.

Jury.] How near did you live to *Dunmaine*?

A. I liv'd no nearer *Dunmaine* than *Waterford*.

CROSS EXAMINATION.

Mr. Le Hunte.] How old are you?

A. About *six* and *forty*.

Mr. Smith.] You say, I think, that you saw Lady *Altham* at *Dunmaine* and with Child?

A. Yes, Sir.

Q. Can you recollect the particular time?

A. In *March*.

Q. What Year was it?

A. Indeed, Sir, I can't tell.

Q. How many Years ago is it?

A. About *thirty* Years ago.

Q. How old were you at that time?

A. I don't know, but I know how old I am now.

Q. How old are you now?

A. *Six* and *Forty*.

Q. Where did you live at the time you saw my Lady at *Dunmaine*?

A. In *Camolin*.

Q. How far from *Dunmaine* is that?

A. I believe about twenty Miles.

Q. Upon what Occasion did you come to *Dunmaine*?

A. My Father was making Bricks; he was digging the Clay that time.

Q. How came you to come so far to see your Father?

A. Because my Friends were in *Waterford*, and they were going to leave me there.

Q. Who were present at the hiring your Mother for Nurse?

A. None present at the hiring my Mother but my Lord and Lady, and only the Woman that my Lady call'd *Mary*.

Q. Who was she?

A. I can't tell, except her own Maid.

Q. Pray then, what part of the House was this in?

A. In the left Hand Parlour.

Q. How came you to be in that Parlour?

A. By reason my Lady desired my Mother to come in.

Q. Was that any business of your's?

A. I was along with her.

Q. What do you call the left Hand Parlour?

A. The left Hand Parlour, as you come from the big Door.

Q. When did you see the House of *Dunmaine*?

A. I've seen it oftner than once.

Q. How long is it since you were there last?

A. I forget, Sir.

Q. Pray, recollect, was it in *July*, *August*, *September*, or *October* last, or not?

A. Why then indeed I can't tell.

Q. Was it last *Summer*?

A. It was.

Q. Was you carried there?

A. I was.

Q. By whom?

A. I rode there upon a Horse.

Q. What Company occasioned you to go there, who desired you to go there or sent for you?

A. I went there by the reason that I was desired, if I knew any thing of Mr. *Annesley*, and I went there to give an account to Mr. *Annesley* what I could tell.

Q. Who



Q. Who took you there ?  
 A. A Man I hired took me there.  
 Q. Who sent for you ?  
 A. Madam Coles desired me to go along with her.  
 Q. Was Madam Coles there ?  
 A. She and Mr. Coles too were there.  
 Q. Who was it you spoke to there concerning this Affair ?  
 A. I spoke to the Gentlemen in the Room.  
 Q. What Gentlemen were there ?  
 A. Counsellor Fitz-gera'd, and Mr. Annesley, and Mr. Mc Ke cher, and Mr. Coles, and Mr. Kennedy.  
 Q. How long had you been absent from Dunmaine ?  
 A. I believe about Twelve Years or Thirteen.  
 Q. Did you take particular notice the last time you were there of the House ?  
 A. Indeed I did not.  
 Q. I ask you whether you did not make an Affidavit touching this Matter in August last ?  
 A. Indeed, Sir, I did not.  
 Q. Did you tell Mr. Lambert, that you had great Discoveries to make to Lord Anglesey ?  
 A. No, Sir, I did not.  
 Mr. Walsh.] My Lord, We shall produce one that liv'd in the Neighbourhood of Dunmaine, and who often visited Lord and Lady Altham, when my Lady was big with Child, and just before her Lying-in, who will give your Lordship Satisfaction that she was with Child, and that he saw the Child often after at the House.

14. JAMES SINNOT.

Mr. Walsh.] Pray, Sir, did you know Lord Altham ?  
 James Sinnot.] Yes, Sir, that liv'd in Dunmaine.  
 Q. Did you know him when he liv'd there ?  
 A. Yes, Sir, I did.  
 Q. Were you acquainted with him ?  
 A. I was acquainted with him.  
 Q. How near did you live to Dunmaine ?  
 A. I liv'd within Six or Seven miles.  
 Q. Were you acquainted with my Lady Altham ?  
 A. No. I was not acquainted with my Lady, but saw her once.  
 Q. Where ?  
 A. Standing at her own Door.  
 Q. Can you recollect the time you saw her ?  
 A. I believe I saw her, for I rode with a Gentleman there, Anthony Colclough, she came to the Door to speak to Mr. Colclough.  
 Q. How did Mr. Colclough address her ?  
 A. The Lady Altham, Sir.  
 Q. When was this ?  
 A. It was in February or March, I can't exactly tell.  
 Q. In what Year ?  
 A. This time thirty years will be soon to the best of my Remembrance.  
 Q. Where was it you saw her ?  
 A. I saw her at the Door.  
 Q. Did you take any particular Notice of her ?  
 A. I took notice of her that she was with Child.

Q. What Reason have you for saying that ?  
 A. Because she seem'd big belly'd to me, that's all the Knowledge I have in them Sort of Things.  
 Q. Did you see my Lord Altham after ?  
 A. I saw Lord Altham after at my Father's House, and at his own House; he dined and sup'd at my Father's.  
 Q. Did you know the person you saw was Lady Altham ?  
 A. I did not know her but as Mr. Colclough told me it was Lady Altham.  
 Q. Was you ever at Lord Altham's after ?  
 A. I was.  
 Q. Did you see ever a Child there ?  
 A. I saw a Child there.  
 Q. What brought you there ?  
 A. I went with a Gentleman there.  
 Q. Did you see Lord Altham then ?  
 A. I saw Lord Altham, Sir.  
 Q. And you saw a Child there ?  
 A. I saw a Child, Sir.  
 Q. Whose was it ?  
 A. Lord Altham ordered that he should be brought up to the Table to us.  
 Q. Who was it that was with you ?  
 A. To the Gentleman who was with me, that he might see his Son and Heir.  
 Q. Who was he ?  
 A. Mr. Ivory.  
 Q. How was that Child dress'd ?  
 A. I can't recollect.  
 Q. Do you know where my Lady was at this Time that you saw the Child ?  
 A. I don't know; I did not see her that Day.  
 Q. How long was this after you first saw her ?  
 A. The Summer following, May or June, I don't know which.  
 Court.] Was you ever examin'd in the Court of Exchequer ?  
 A. No, Sir.  
 Q. Was you at Dunmaine after this ?  
 A. I was at Dunmaine with Mr. Anthony Colclough afterwards.  
 Q. Did you never see my Lady but once ?  
 A. Never saw her but once.  
 Q. Nor the Child but the one time ?  
 A. No.  
 Q. How old was the Child then ?  
 A. I can't tell.  
 Q. Could it walk ?  
 A. It could not walk.  
 Q. How often were you at Dunmaine after ?  
 A. I was there but the one time after with Anthony Colclough.  
 Q. How often were you there in all ?  
 A. Never but three times in Lord Altham's Time.

CROSS EXAMINATION.

Mr. Bradstreet.] I think you say you never saw my Lady but that one Time ?  
 A. Never saw her before or after.  
 Q. What Sort of Woman was she ?  
 A. I did not take Notice what sort of Woman.  
 Q. But you took notice that she appear'd Big ?  
 A. Yes, Sir.

Q. Had



Q. Had she large Breasts?  
 A. I did not mind that.  
 Q. Was she a tall Woman?  
 A. She was neither tall nor short.  
 Q. What did you follow then?  
 A. I followed Farming then.  
 Q. How came you to go with *Anthony Colclough* there?  
 A. Because I always kept him Company, when he thought it was proper.  
 Q. Did you hear of any Quarrel there was between my Lord and Mr. *Colclough*?  
 A. I heard of no Quarrel between them.  
 Q. Who knock'd at the Door, when you and Mr. *Colclough* went there?  
 A. Some Girl or Maid was at it.  
 Q. Who did Mr. *Colclough* ask for?  
 A. He ask'd for Lord *Altham*, and they told him he was gone abroad.  
 Q. Did he go into the House?  
 A. He did not go in.  
 Q. Did he ask to see my Lady?  
 A. He did not ask to see my Lady, he was wheeling off, when she came out and stop'd him.  
 Q. Do you remember to see any Body at any Door *seven* and *twenty* years ago?  
 A. Indeed I do.  
 Q. Who? Name them.  
 A. They were no people of Note, worth remarking.  
 Q. Were you ever before a Jury before?  
 A. Never.  
 Jury.] Don't you say that Lord *Altham* went to your Father's House and din'd and supp'd there?  
 A. He did, and staid all Night.  
 Q. Was that before or after my Lady was brought to Bed?  
 A. It was before.  
 Q. What time of the Year was it?  
 A. It was in *March* or *April*; he was there two or three Nights.  
 Q. Was it before that, that you saw her with Child?  
 A. It was.  
 Q. Was she brought to Bed then?  
 A. No, Sir.  
 Q. How soon after was it?  
 A. I don't know, it may be the *May* following.  
 Q. And it was in *March* or *April* he was at your House?  
 A. It was.  
 Court.] Gentlemen, have you any other Witness?  
 Mr. Serjeant *Tisdall*.] We have, my Lord.  
 Court.] Pray then, send for them.

## 15. JAMES FITZ-PATRICK.

Mr. Harward.] Were you acquainted with Lord and Lady *Altham*?  
 James Fitz Patrick.] I knew them particularly well, Sir.  
 Q. Pray, Sir, did you know them at *Dunmaine*?  
 A. I did, Sir.  
 Q. Did you live in that Country?  
 A. Within *five* or *six* Miles of them, Sir.  
 Q. Were you frequently at *Dunmaine*?  
 A. I was pretty often there.

Q. Did you know one Mrs. *Mary Heath*?  
 A. I've seen her at *Dunmaine*. I can't tell whether I'd know her again.  
 Q. Do you think if you saw her you should know her again?  
 A. I don't think I should know her again.  
 Q. Do you remember the Name *Mary Heath*?  
 A. I do remember *Mary Heath*, very well, Sir.  
 Q. Now you that were intimately acquainted with my Lord and Lady as you say, did you observe any Child in the Family?  
 A. Why really, Gentlemen, I saw the Child very often after my Lady parted *Dunmaine*, and to the best of my Memory, I saw the Child there one Day in the Forenoon while my Lady was there, and Mrs. *Mary Heath*, I saw her; and Lord *Altham* was pleas'd to be towzing and kissing her, and she told him, if he would not give over, she'd call to my Lady; and I saw a clean dress'd Woman with a Child in her Arms come to the Place where I was, to the best of my Memory, I can't say positively.  
 Q. Whose Child was it?  
 A. I can't tell, I took it to be my Lord's.  
 Q. What Reasons had you to take it to be his?  
 A. Because my Lord had introduced the Child to me some time before.  
 Q. Introduced him! How? What did my Lord say?  
 A. I can't tell the words, but he introduced him to me after a friendly Manner.  
 Q. How did my Lord behave to that Child?  
 A. He was very fond of him, as fond as of his Eyes, and kept him like a Gentleman's Child.  
 Court.] Did you see him in my Lady's time?  
 A. I can't say positively that I saw him in my Lady's time; the greatest Freedom I had with my Lord *Altham* was after my Lady's Departure.  
 Q. Can you take upon you to say that the Child you saw was my Lord's Child?  
 A. I took him to be Lord *Altham*'s, and my Lord had that Regard for me that he would not introduce an illegitimate Child to me.  
 Q. When you first saw this Child, did you see it before the Separation?  
 A. To the best of my Memory, I did once.  
 Q. Can you swear positively you did?  
 A. I can't swear positively.  
 Q. Now, at the Time that you saw this Child to the best of your Memory before the Separation, did you see Mrs. *Heath*?  
 A. I did, Sir.  
 Q. Had she the Care of any Body upon her at that time?  
 A. Not as I know of.  
 Q. Did she take Notice of any Child?  
 A. I can't tell whether she did or not.  
 Q. Did you ever see this Child in my Lady's Company?  
 A. I never did, Sir.  
 Q. How did my Lord treat this Child, did he use him with any particular fondness?  
 A. I know my Lord was very fond of him.

Mr.



Mr. Harward.] There can be no legal Evidence I find, but one that was actually present at his Birth.

Court.] You mistake the Court, Mr. Harward.

Mr. Harward.] My Lord, I'm sure I would not willingly mistake the Court, but what I contend for is, that I have a right to ask this Question; I humbly apprehend I have, for it is a Point of the Perjury, that there was a Child taken to be my Lady Altham's Child at Dunmaine. And this being the Case, I would ask him whether there was any Child in the Family as the Child of the Family.

Mr. Smith.] My Lord, this is not the Point, the Point is —

Court.] Ask him in the very Words of the Indictment, if you will ask him.

Court.] Was there a Child of Lord and Lady Altham's living at Dunmaine while Mrs. Heath was there, to your Knowledge, as the Child of that Family, while my Lady was at Dunmaine?

A. Really, my Lord, there was no doubt upon me, but there was such a Child.

Q. Can you say positively you saw a Child there while my Lady was there?

A. To the best of my Memory, I did see the Child while my Lady was there.

CROSS EXAMINATION.

Mr. Le Hunte.] Where do you live?

A. At Cloughleagh.

Q. How long have you liv'd there?

A. These four and thirty Years.

Q. Was you examin'd on the late Trial in the Court of Exchequer?

A. No.

Q. Did you know of that Trial?

A. I did hear of it.

Q. When was it you first discovered your Knowledge of this Transaction?

A. I can't tell.

Q. Was it before the Trial? How came you to be a Witness now and not then?

A. Because I was Subpœna'd now, and was not then.

Q. Did you ever see Mr. Mac Kercher?

A. I've seen him very often.

Q. Did you see him before the Trial in Ejection in the Exchequer?

A. I never did.

Q. When did you first see him?

A. I can't exactly tell you when I saw him.

Q. You know you are a skilful Man at the Assizes, why did you not disclose this matter before?

A. It was fore against my Will that I was brought in at all.

Q. Do you know Mr. William Sutton?

A. I do.

Q. Is he a Man of Honour?

A. He is I believe.

Q. Had you any and what Discourse with him about this Matter?

A. I never had any Discourse with him.

Jury.] You say you never saw my Lady Altham take notice of the Child?

A. I never saw them together.

Q. Did not you say, that you were at the House before my Lord and Lady parted and saw that Child then?

A. I did, Sir.

Q. Did you know whose Child it was?

A. I believed it was Lord Altham's.

Q. Was you told so?

A. I don't know whether I was or no.

Q. How did you know then that it was their Child?

A. I took it for granted.

Q. How old was the Child when you saw it first?

A. Really, I can't tell; about Eighteen Months or thereabouts.

Q. Pray, Sir, was it running about?

A. It was in the Arms of a Maid or Woman.

Q. Was she in the Habit or Dress of a Servant of the Family?

A. She was very clean.

Q. How was the Child dress'd?

A. Oh! the Child was very clean.

Q. So, you know no more of this than that you took it to be their Child of your own accord?

A. I was not nor did not doubt it at all.

Mr. Le Hunte.] Are you sure my Lady was at Dunmaine when you saw the Child there?

A. I saw it at Dunmaine after the Separation I know, my Lady I believe was not there.

Q. Was my Lord fond of it at that time?

A. Aye, and introduced him to me.

Q. Did he mention the Mother of the Child?

A. He did not mention the Mother.

Q. Who was Butler then?

A. I can't tell any of the Servants, nor what Servants I kept my self at that time. I saw Taylor and Sutton.

16. JANE MURPHY.

Mr. Robins.] My Lord, this Witness was sent for by my Lady Altham to be a Nurse, and in the Presence of my Lady gave the Child Suck, and would have been hired to Nurse the Child, but her Husband would not let her stay in the House, and my Lady would not let the Child go out.

Mr. Robins.] Did you know my Lady Altham? Jane Murphy.] I saw her but once in my Life.

Q. When was that?

A. It is about nine and twenty or thirty Years this May coming, there or thereabouts.

Q. What was the Occasion of your going to see her?

A. My Lord spoke to me two or three times to go Nurse this Boy.

Q. Did you see ever a Child there?

A. I did, Sir.

Q. How old was that Child then?

A. About a Month or three Weeks, there or thereabouts.

Q. Who was present when you saw the Child?

A. My Lady and the Woman that brought the Child into my Lady's Room.

Q. Do you know who that Woman was?

A. I don't know who she was, I knew no Servant but Bryan Mac Cormack.

Q. Where did you live then?

A. I liv'd then at the Salt Mills of Tyntern by the Sea side.

Q. How far is that from Dunmaine?

A. Four Miles from Dunmaine, never reckon'd but four.

I

Q. What



Q. What was it you did or said to my Lady ?  
A. I told my Lady that my Lord sent a Messenger for me to nurse the Child.

Q. And did you Nurse the Child ?

A. Indeed I did not Nurse him.

Q. What was the reason you did not ?

A. My Lady would not let me have the Child out, and I would not stay in the House.

Court.] Did you ever see my Lady before ?

A. I never did.

Q. Nor since ?

A. No.

Q. Would you know the Woman, if you saw her, that brought the Child into the Room ?

A. I can't tell whether I would know her or no.

Q. Did you ever see her since ?

A. I never saw her since.

Jury.] Who nurs'd the Child the first three Weeks ?

A. I did not examine, nor can't tell.

Mr. Daly.] Whose Cloak is that ?

A. It is my own.

Mr. Daly.] I don't believe you.

Jane Murphy.] Faith, and you may, and I've wore a better before now.

Mr. Mac Manus.] The next Witness is *Dennis Redmond*. This Witness will prove to your Lordship that Lady *Altham* was with Child, and brought to Bed of a Child ; that he was the Person sent for the Midwife on that Occasion, that he brought one Mrs. *Sbiel*, a Midwife of *Rofs* to *Dunmaine*, and that my Lady was deliver'd of a Child.

#### 17. DENNIS REDMOND.

Mr. Mac Manus.] Did you know the late Lord and Lady *Altham* ?

Dennis Redmond.] I did, I knew them both.

Q. How came you to know them ?

A. Because I was a Servant.

Q. Where did they live then ?

A. At *Dunmaine*.

Q. Did you frequently see my Lady *Altham* ?

A. I did.

Q. Was she, or was she not with Child during the time of your Service ?

A. She was, and all the Servants round said that she was, *she look'd big*.

Q. Was there any young Child in that Family ?

A. There was.

Q. Whose was it ?

A. It was reputed to be Lord and Lady *Altham's*.

Q. Was you sent to *Rofs* on any, and what Occasion ?

A. I was, for a Midwife.

Q. Who sent you ?

A. Mrs. *Heath*.

Q. Do you know her ?

A. I ought to know her.

Q. Look about and see if you know her ?

A. Upon my word, I can't swear directly that that is Mrs. *Heath*, but that was my Lady's Maid.

Q. Who sent you of that Errand ?

A. My Lady's Maid did.

Q. Did you go for the Midwife ?

A. I went for her.

Q. And did you bring her ?

A. I got the Midwife.

Q. Who was she ?

A. One Mrs. *Sbiels*.

Q. What did you then do ?

A. I fetch'd her home to *Dunmaine*.

Q. What happen'd after she came to the House of *Dunmaine* ?

A. Why, after I brought her home, that Night it was a Noise with them all, every one, that my Lady was brought to bed of a Son.

Q. Did you see the Child ?

A. I seen him afterwards.

Q. How soon after the Midwife left the House ?

A. I can't tell how soon.

Q. Did you see him the next Day ?

A. Not the next Day.

Q. Did you in five Days or ten Days ?

A. No, I believe not.

Q. Did you in a Month ?

A. I did in a Month.

Q. In whose Care was it ?

A. I can't tell, I seen it among the Girls, among the Servants as they were.

Q. Did you know *Joan Laffan* ?

A. I did.

Q. And Mrs. *Heath* ?

A. Yes.

Q. In whose Care did you see it, name them particularly ?

A. I seen the Child with both one and t'other several times.

Q. Name them ?

A. Mrs. *Heath* and *Joan Laffan*, and with other Girls that I can't remember.

Q. Were there any Rejoicings the Night you brought the Midwife ?

A. There was the Night after.

Q. What was the Nature of that Rejoicing ?

A. There was a Fire there up in the Avenue among the Trees.

#### CROSS EXAMINATION.

Mr. Daly.] Did you know one Mrs. *Hesher* that liv'd in this Family ?

A. I did, very well.

Q. Did not they call her my Lady sometimes ?

A. I never heard her call'd so in my Life.

Q. Was not she with Child while you were a Servant, upon your Oath ?

A. Upon my Oath, I can't tell whether she was or not.

Q. Did not you go, upon your Oath, for a Midwife to lay her ?

A. Upon my Oath, I never did.

Q. Do you know one Mr. *William Sutton* of *Longraige* ?

A. I do.

Q. What is he ?

A. He is a Gentleman.

Q. Had you ever any Discourse with him concerning your going for a Midwife and for whom ?

A. Upon my Oath, I never had with Mr. *Sutton* concerning going for a Midwife for any Person, not that I know of, Sir.

Q. Do you know Captain *Orfeur* ?

A. I do.

Q. Had you any Discourse with him ?

A. I had Discourse with him.

Q. Who



Q. Who is he ?  
 A. He's Colonel *Palliser's* Son-in-law, I was there one Night after riding a Horse for him.  
 Q. What Servants liv'd at *Dunmaine* at this time ? name them, who was the *Butler* ?  
 A. It is hard for me to remember at this time.  
 Q. Upon your Oath, who was the *Butler* ?  
 A. One *Magher*, to the best of my Knowledge, and there was one *Dyer* there.  
 Q. Was his Name *Anthony* ?  
 A. *Anthony*.  
 Q. Was he or you in the Service first ?  
 A. I was in the Service before he came there.  
 Q. What other Servants can you recollect, do you know Mrs. *Setwright* ?  
 A. If she was there I knew her, she may be there for me, it is out of my Mind.  
 Q. Who was the *House keeper* ?  
 A. I don't know as for that, because there was a *Cook* there still.  
 Q. Do you remember the Name of *Setwright* ?  
 A. I think I remember to hear talk of her.  
 Q. Who was *Coachman* ?  
 A. *John Weedon*.  
 Q. Was his Wife there ?  
 A. His Wife was living at the Bridge below at this time.  
 Q. Did *Joan Laffan* live in the House at this time that you brought the Midwife ?  
 A. Upon my Oath, I can't tell now.  
 Q. What do you believe ?  
 A. I don't know whether she was or not, for there were several Servants there and a great many that I don't know now.  
 Q. Pray, did you ever see this Child in the Hands or Care of *Joan Laffan* ?  
 A. I did, Sir.  
 Q. Was not that after my Lord and Lady parted ?  
 A. It was after they parted.  
 Q. Was he ever in her Care before they parted ? In her Care or Hands ?  
 A. How could I mind all these things ?  
 Q. You must recollect ?  
 A. Upon my Word, I can't tell.  
 Q. What Service were you in ?  
 A. After the Hounds and the Hunters.  
 Q. After them ?  
 A. Aye, taking care of them, and hunt them too, and would to this Day, and ride a Horse too.  
 Q. When was it my Lord and Lady parted ?  
 A. I can't be exact.  
 Q. When did you bring the Midwife there ?  
 A. I can't keep a Memory of what Year, nor I'm no Scholar to keep that in my Head.  
 Q. Don't you remember the Separation ?  
 A. I remember the Time they parted, but can't tell what Day of the Week, but I think a *Holyday*.  
 Q. What time of the Day was it ? Was it in the Morning ?  
 A. I can't remember whether it was or not now.  
 Q. Did my Lady go in a Coach, or on Horseback ?  
 A. In a Coach or Chariot.  
 Q. How long did you continue in the Service after they parted ?  
 A. I did not stay long there after.

Q. How long ?  
 A. I can't tell how long, because my Father and Mother were in the Town of *Dunmaine* and I went to them, upon my Word I can't tell how long.  
 Q. Where did my Lady go ?  
 A. To *Rofs*.  
 Q. How long did you live in the Service in all ?  
 A. About *three* years, or full *three* years, or something better, to the best of my Knowledge.  
 Q. Had not *Joan Landy* a Child a nursing at her House ?  
 A. She had my Lord's Child a nursing.  
 Q. Was not that Child brought into the House of *Dunmaine* after my Lord and Lady parted ?  
 A. He used to come in before and after.  
 Q. But did not he come in for good and all after they parted.  
 A. He did come for good and all, and was put into the Care of *Joan Laffan*.  
 Q. How came he to be taken from *Joan Landy* ?  
 A. I can't tell, without he had done nursing.  
 Q. How long did you live at *Dunmaine* before my Lady came there ?  
 A. I was there before either of them came.  
 Q. How long was you in the Service ?  
 A. About *three* years or better.  
 Q. What time did my Lord and Lady come down ?  
 A. I can't remember.  
 Q. How long had you been a Servant before my Lady first came down ?  
 A. I can't tell how long, but it is *three* years I serv'd in all.  
 Q. How long was you in the Service before she came, and how long after ?  
 A. Let me never go but I can't remember.  
 Q. Did not you swear when you were examined on the former Trial that you were *two* years in the Service before my Lady came to *Dunmaine* ?  
 A. I was there ; I can't be exactly how long.  
 Q. And how long of that *three* Years was you there after they came down ?  
 A. Why, I believe, to the best of my Knowledge, a *Year* or something better, I can't be exact.  
 Q. Will you tell me how soon after they came down my Lady was delivered of this Child ?  
 A. Indeed, I can't remember.  
 Q. Was it a Year, or half a Year, or what time ?  
 A. I can't tell.  
 Q. Was you a Servant when she was delivered ?  
 A. I was.  
 Q. Were you there when *Sarah Weedon* came down ?  
 A. I was there before she came into the Place at all.  
 Q. Did you and Mrs. *Shiel* discourse as you were coming to *Dunmaine* ?  
 A. How can I remember ?  
 Q. Could she speak *English* ?  
 A. She could indeed.  
 Q. Is she alive ?  
 A. I can't tell whether she is or not.  
 Q. Was she an *Irish* Woman ?  
 A. I can't tell whether she was or not.  
 Jury.] You say, Sir, that you saw *Joan Landy's* Child in the House of *Dunmaine* before the Separation ?  
 A. In



A. In the House I did backwards and forwards.

Q. Did any body take notice of it?

A. Every one of the Family, one from another used to handle and play with it.

Q. Did you observe my Lord to play with it?

A. I did, and was as fond of him as could be.

Q. Now, you say that after my Lady was turn'd away that Child was actually brought home to *Dunmaine* House?

A. He was that very time.

Q. And you saw my Lord fond of him then?

A. I saw him fond of him then and after.

Q. What became of my Lady's Child?

A. Why, I believe, this was my Lady's Child, they all said so.

Q. Did not you say it was *Joan Landy's* Child that was brought to the House?

A. He did come in, the Child she nurs'd.

Mr. Daly.] Had not *Joan Landy* a Child?

A. She had sure enough.

Q. Was not he got by my Lord?

A. They said it was.

Q. Who nurs'd her Child?

A. I can't tell except herself nurs'd her Child.

Jury.] Mr. *Daly* ask'd him, my Lord, who was the Father of *Joan Landy's* Child, and he says my Lord was, and that she nurs'd that Child.

Mr. Solicitor General.] This is a Matter ought to be well understood. The Jury apprehended the Child this Man meant, was the bastard Child of my Lord *Altham* by *Joan Landy*, I desire to know which Child you meant?

Dennis Redmond.] I say, there was a Child that *Joan Landy* had by a Sailor, or my Lord, or some body, but this Child did not come to *Dunmaine*.

Jury.] Had *Joan Landy* a Child?

A. I can't tell whether she had of her own Body.

Q. Was she with Child at *Dunmaine* while you were a Servant there?

A. She was with Child in the Town.

Mr. Daly.] By the virtue of your Oath, was she or was she not a Servant in the House when my Lady came down first?

A. By virtue of my Oath, I cannot tell.

Q. Did she live there?

A. She was in the Town to be sure.

Q. Where was *Joan Landy* when you went for the Midwife?

A. In her Father's House.

Q. How near was that to my Lord's House?

A. It was just below the Dog-kennell.

Jury.] Was not *Joan Landy* a Servant in the House when my Lady came home?

A. I can't tell whether she was or not.

Mr. Daly.] Did not you swear on the Trial in the *Exchequer*, that she was in the House when my Lady came down?

A. She may come in and out, and I'm not full sure whether she was or not.

Mr. Smith.] I hope the Jury will take Notice that he refuses to answer the Question.

Mr. Daly.] Do you remember *Elenor Murphy* and *Mary Doyle*?

A. *Mary Doyle* I remember; there were so many they went out of my mind.

Q. Do you remember *Nelly Murphy*?

A. I can't tell whether I do remember *Nelly Murphy*, or not.

Q. Can't you say whether you do or no?

A. It is impossible to remember, when there were so many of them.

Mr. Callaghan.] We shall now produce *Elenor Murphy*.

Mr. Smith.] My Lord, this Witness has been here while *Redmond* was examin'd, and has heard what he said upon the Table; and it was a Rule made by your Lordship, that they should not examine any Witness that came into Court before they were call'd.

Mr. Nelson.] My Lord, I sent for her to have her ready, thinking the Cross Examination of *Redmond* would not hold long, and she is but just come.

#### 18. ELENOR MURPHY.

Mr. Callaghan.] Did you know Lord and Lady *Altham*?

Elenor Murphy.] Yes.

Q. Pray, was you ever at *Dunmaine*?

A. Yes.

Q. Did you live there as a Servant?

A. I did.

Q. With whom there?

A. With Lord and Lady *Altham*.

Q. Can you tell whether my Lady was with Child at any time, or when?

A. I know she was deliver'd of a Child.

Q. How do you know that?

A. Because I seen her the Night she was deliver'd.

Q. Give an Account of all you know of that Matter?

A. Mrs. *Heath* call'd me up, and desir'd me to bring up a Saucepan of Water and have it warm'd.

Court.] Do you know that Mrs. *Heath*?

A. I can't tell.

Q. What was she?

A. She was my Lady's Woman, Waiting-Maid.

Q. Well, go on.

A. I brought up the Water in the Saucepan and set it upon the Big Parlour Fire. Mrs. *Heath* call'd me a little while after to bring it up to the Room in a brown Pan, and I went to my Lady's Room with it, where my Lady was upon her Knees, and she put her finger in it to see whether it was too hot or cold; and she team'd some Brandy in it to strengthen the Water, as I suppose, to wash the Child.

Mr. Callaghan.] Where was Mrs. *Heath*?

A. She was attending my Lady.

Q. Do you know of what my Lady was deliver'd?

A. It was a Boy, for I saw it wash'd, and Mrs. *Shiels* put her Hand in her Right Hand Pocket and brought out her Scissars and cut his Navel String.

Q. Who were present at this Birth?

A. There were a great many Gentlewomen in the Room that I did not know, but I knew one of them, Madam *Butler* from *Ross* was there.

Q. Were there any publick Rejoycings at *Dunmaine* on this Occasion?

A. Yes, the second Night after the Child was born there was a Bonfire alighted by Mr. *Taylor's* Order and Mrs. *Heath*.

Q. Do



Q. Do you remember the Christning of this Child?

A. I knew the Day appointed for it to be Christned, about a Month or five Weeks after there was a great gathering for it of many things.

Q. Was it Christned?

A. Doctor Lloyd came there I suppose to Christen the Child.

Q. Who was he?

A. He was the Minister of Ross, Sir; I knew him before and after.

Q. Was it Mr. Lloyd that Christen'd it?

A. It was he that Christen'd the Child.

Q. What Name was given to it?

A. Mrs. Heath came down to the Hall and told among the Servants he was called James Annesley.

Jury.] That was his Christian Name?

A. Yes, James Annesley was his Christian Name.

Mr. Callaghan.] What Name was he Christen'd by?

A. He was christen'd James Annesley.

Q. Do you mean that he was christen'd James or James Annesley?

A. James Annesley.

Q. Was that his Christian Name only, or his Christian and Surname?

A. That was the Christian Name and Surname and all, and they said it.

Court.] What was he call'd when he was christen'd?

A. James Annesley he was call'd indeed.

Q. Was he christen'd James Annesley?

A. He was christen'd James Annesley.

Mr. Callaghan.] Did you see the Child after at Dunmaine?

A. Yes, I did.

Q. How often, once or twice?

A. Several times with Mrs. Heath a dressing of him, when he'd be sent for, and there never was a Woman lov'd a Child better than she did James Annesley.

Mr. Le Hunte.] The Jury want to know if he was christened James Annesley?

Elenor Murphy.] He was christen'd James Annesley.

Jury.] How do you know that?

A. This was what I heard Mrs. Heath tell to all the Servants in the Hall.

Mr. Callaghan.] Pray, how long did you continue after this Christening at Dunmaine?

A. A good while.

Q. How long?

A. I believe a quarter of a Year.

Q. Where was that Child during that Time?

A. He was sent to Joan Landy's out to Nurse, she took him with her.

Q. Do you remember the time of my Lord and Lady's Parting?

A. I was not there then.

Q. But do you remember the Time?

A. I don't remember the Time.

Q. Was it before or after that, that Joan Landy got the Nursing?

A. She got the nursing the Day that he was christen'd, she came to nurse him the Day before.

Q. Where did you go when you left Dunmaine?

A. I went to Ross, after I left Dunmaine.

Q. Did you see the Child after?

A. I never saw the Child after, only once that he came to Ross with my Lord in the Coach.

Q. Do you understand what a Christian Name and what a Surname is?

A. Yes.

Q. What was the Child's Surname?

A. His Surname is Annesley.

Q. And what his Christian Name?

A. His Christian Name is James.

Q. Was Annesley his Surname or Christian Name when he was christen'd?

A. It was a Surname, Annesley.

CROSS EXAMINATION.

Mr. Spring.] Tell me, recollect who were present when the Child was born besides you?

A. There were several.

Q. Name them?

A. Madam Butler.

Q. Who else?

A. I don't know it is so long ago, I should have a good head to remember them.

Q. Do you remember were any of the Servants by?

A. I remember some of the Servants, Mary Doyle was by.

Q. Was Mary Doyle in the Room?

A. She was in the Room and Mrs. Heath.

Q. And who else?

A. Why, some Gentlewomen, I can't tell who they were.

Q. Have not you as good a Memory now as a Year ago?

A. I have not.

Q. Is not it as good now as last year?

A. I don't know but it is.

Q. Was not Mary Doyle there and Madam Butler?

A. Yes, they were.

Q. Do you remember any more?

A. I don't remember any more?

Q. How long had Mary Doyle been in the Service before the Birth?

A. I can't tell indeed that.

Q. What name did she go by then?

A. By Mary Doyle.

Q. She was not married then?

A. I never heard she was.

Q. Which of you was in the Service first?

A. I was first.

Q. How long, pray?

A. Why, a good While, I don't remember how long.

Q. How long was you there after the Child was born?

A. I was there half a year almost, not half a year.

Q. And how long was you there before?

A. Near hand a Quarter before.

Q. What was you in the Family?

A. I was Laundry-Maid.

Q. Was you the head Laundry-Maid?

A. No.

Q. What was the Name of the upper one?

A. I can't remember her Name.

Q. Recollect?

A. It was a strange sort of a name, I can't recollect it now.

K

Q. How



Q. How long do you say you liv'd in the Service before the Birth?

A. Near hand a Quarter of a Year.

Q. And how long after?

A. About half a Year.

Q. Where was you at the Time of the great Eclipse?

A. I don't know.

Q. Do you remember it?

A. I don't remember it, but I remember there was great Thunder and Rain.

Q. Don't you remember the great Eclipse several years ago?

A. I don't remember it now, but I remember Thunder and Rain.

Q. How came you to remember last year what you don't remember now?

A. Why, what did I remember then?

Mr. Spring.] The Eclipse.

Q. I ask you, upon your Oath, where you were at the Time of the Eclipse?

A. I was at Captain Butler's at this Time of the Thunder and Rain.

Q. Was there any Darknefs of the Sun in the Morning at the time of that Thunder and Rain.

A. I don't remember it.

Q. Were you not a Servant at Captain Butler's at the Time of the Eclipse?

A. I was there when this Thunder and Rain was, the Eclipse was in the Evening.

Q. By virtue of your Oath, don't you remember the great Eclipse of the Sun?

A. By the virtue of my Oath, I don't remember any other.

Q. Was that Thunder before or after the Child was born?

A. The Thunder was since he was born.

Q. Was not you in Captain Butler's Service then?

A. I was in Captain Butler's House, but not in the Service.

Q. Was not you a Servant at Dunmaine before Lady Altham came to Dunmaine?

A. I was not in it when she came there, it was Mrs. Heath hired me.

Court.] How long did you live at Dunmaine before my Lady came?

A. She was there before I went there.

Q. How long were you in the Service before my Lady was brought to Bed?

A. Near a Quarter of a Year.

Q. And how long after?

A. Half a Year.

Q. Do you remember the great Darknefs?

A. I don't, my Lord.

Q. But you were ask'd whether you remembered it when you were examin'd on the Trial in the Exchequer, and you said you did?

A. Why, they only ask'd me then if I remembered the Eclipse, and I said I remembered that there was such a Thing.

Q. By the virtue of your Oath, did you never say that you remembered the Eclipse?

A. I do remember that Darknefs.

Q. What Darknefs was it?

A. It was a Thunder and Rain.

Q. Was that while you liv'd at Dunmaine?

A. It was after I left Dunmaine.

Q. What time of the Day was it?

A. It was in the Evening; in the Afternoon.

Q. How long did it continue?

A. The Rain held a quarter of an Hour.

Q. Did you mention any Thunder and Rain when you was examined before?

A. I was not ask'd any, my Lord.

Q. Do you remember an Eclipse that happen'd about the time of the Birth?

A. I don't remember any but that Eclipse that was in the Evening that there was Thunder and Rain along with it.

Mr. Spring.] Were you not at Dunmaine House when my Lady came down?

A. No, I was not.

Q. Did you ever see her before you saw her at Dunmaine?

A. No indeed, I never did.

Q. Did she go to Dublin while you were in the Service?

A. Not that I know of.

Q. Could she be absent a Month or two and you not know it?

A. No, she was not, in my Service at all, without she'd go to Church.

Q. Did not you swear formerly that you were in the House when my Lady came first?

A. Indeed, I did not.

Q. Where was you hired?

A. By Mrs. Heath.

Q. Where?

A. In the Parlour at Dunmaine.

Q. And you never saw Lady Altham before?

A. Indeed, I never did.

Q. Did not you say, when you were examined before, that you had seen her at Ross?

A. Indeed I did not, without they took me up wrong.

Court.] Did not you swear upon that Trial, that you were in the Service a good while before my Lady came down?

A. No, upon my Word I did not, my Lord.

Mr. Spring.] Did you not say, that the first Time you saw my Lady was at Captain Butler's before you were a Servant at Dunmaine?

A. Upon my Oath, I did not, that I remember.

Q. Now, I ask you who were the Godfathers and Godmothers to this Child?

A. Mr. Colclough, Mr. Cliff, and Mrs. Pigot were Gossips.

Q. What Colclough?

A. Of Rossfarland.

Q. What was his Christian Name?

A. Anthony Colclough.

Q. Who were the other Gossips?

A. Councillour Cliff, and Madam Pigot of Tyntern.

Q. Whose Wife was she?

A. Why, was not she Captain Pigot's of Tyntern?

Q. I ask you whose Wife she was?

A. She was call'd Madam Pigot of Tyntern.

Q. Was not she Captain Pigot's Wife?

A. I can't tell, but she went by that Name.

Q. By what Name did you pass yourself at that time?

A. Elenor Howlett, and my Husband's Name is Murphy.

Q. Do you know one Bridget Howlett?

A. Yes.

Q. Was she a Servant to my Lord Altham?

A. We liv'd there at the same time.

Q. Who was Butler then?

A. Charles Magher was Butler.

Q. Did



Q. Did you know one *Rolph* that was *Butler* ?  
A. *Rolph* was not there in my Time.

Q. Did you know Mrs. *Weedon* ? Was she in the House ?

A. I heard talk of her ; she was not in the House because she was under an ill Character.

Q. Where did she live then ?

A. She was at the Bridge below.

Q. How near was that to *Dunmaine* ?

A. To the best of my Knowledge, near half a Mile, I can't tell how long.

Q. Do you remember Mrs. *Setwright* ?

A. I don't remember her.

Q. Who was *House-keeper* ?

A. I think, *Mary Doyle*, that had the Name of *House-keeper*.

Q. Where did you live before you came to Captain *Butler's* ?

A. At *Frank White's* in *Rofs*.

Q. Where did you live after you left Lord *Altham's* ?

A. At no Place, I was with my own People.

Q. Did you ever live with one *Macnamee* ?

A. I did indeed.

Q. Did you live with him before or after you left Lord *Altham's* ?

A. That was after I left Lord *Altham's*.

Jury.] Name the Gossips over again, how many were there ?

A. Three.

Q. Name them ?

A. Counsellor *Cliff*, *Anthony Colclough* from *Roffgarland*, and Mrs. *Pigot* of *Tynterne*.

Court.] This is a positive Witness to the Birth, if you can possibly believe, Gentlemen, that she is a Woman that deserves your Credit.

Mr. Serj. Marshall.] I hope your Lordship won't make any Remarks upon the Witnesses, till we come to the Clofe ; if we are to support the Credit of our Witnesses, as they appear, we shall never have done.

Court.] I say, if she be a person of Credit ; you would not have me say she is a Person of undoubted Credit.

19. MARY DOYLE.

Mr. Harding.] The next Witness we produce is *Mary Doyle* ; she, my Lord, is a Witness to the Birth.

Q. Did you know *Arthur* late Lord *Altham* ?  
A. *Mary Doyle*.] Yes, Sir, I did.

Q. Did you know his Lady ?

A. Yes, Sir.

Q. How came you to know them ?

A. Because I was their Servant, Sir.

Q. When was you in their Service ?

A. That's a good while ago, it is hard for me to remember it now.

Q. How long do you think it is ?

A. I believe, to the best of my Knowledge, nine or ten and thirty Years this *May* next

Q. How long do you say it is ?

A. It is nine and thirty this *May*.

Q. Recollect, Woman, how many Years is it since you liv'd there, is it nine and twenty or thirty, or how many ?

A. It is thirty this *May*, since you'll have it so.

Q. During your Knowledge of Lady *Altham* was she with Child ?

A. She was with Child.

Q. Was she delivered ?

A. She was indeed.

Q. Where ?

A. In her own House at *Dunmaine*, Sir.

Q. How do you know that ?

A. I was by, Sir.

Q. Was you present ?

A. I was indeed.

Q. Was any body else present ?

A. There was.

Q. Who ?

A. Three or four Servants.

Q. Who were they ?

A. One *Nell Murphy*, and Mrs. *Heath* first, and *Elenor Murphy*.

Q. Were there any Gentlewomen there ?

A. There was Madam *Butler*, and some others I don't know.

Q. Was the Child christened ?

A. He was.

Q. By whom ?

A. By one *Lloyd* out of *Rofs*.

Q. Who was he ?

A. A Minister and Curate.

Q. Of what Place ?

A. Of *Rofs*.

Q. Who were the Godfathers and God-mother ?

A. To the best of my Knowledge, Mr. *Colclough*, Mrs. *Pigot* of *Tynterne* and Mr. *Cliff* from *Rofs*.

Q. Were there any Rejoicings upon that Account ?

A. A great deal, Sir.

Q. When and where ?

A. In the House.

Q. Tell what Rejoicings there were ?

A. There were the best of Liquors, and the best of Eating and Rejoicing every way.

Q. Was there a Bonfire ?

A. There was.

Q. When was that Bonfire ?

A. The Night after the Child was born.

Q. Pray now, what came of that Child after ?

A. Indeed I don't know ; there was a Nurse there that had him, for I left the Place a few Days after he was christened.

Q. What was the Nurse's Name ?

A. To the best of my Knowledge, her Name was *Landy*.

Q. How long did you stay after the Christening ?

A. I left the House a few Days after.

Court.] Did you see my Lady deliver'd ?

A. Indeed I did, I was an Eye-witness to it, for I was in the Room all along.

Q. Are you sure whether Mrs. *Heath* was in the Room or not ?

A. Indeed she was from the first to the last.

CROSS EXAMINATION.

Mr. Spring.] You say *Joan Landy* was the Nurse ?

A. Yes, Sir.

Q. Was she married or a single Woman ?

A. I heard by every Body in the House that she was married.

Q. To whom ?

A. To one *Mac Cormack*.

Q. Were



Q. Were they living together at that time in their own House?

A. I don't know whether they were or not.

Q. Where did they live then?

A. They liv'd in the Town.

Q. At what time was this Birth and Christening?

A. It was in the Month of May.

Q. The latter End or the Beginning of May.

A. The latter End of May.

Court.] How long was it between the Birth and the Christning?

A. Between *three and four Weeks*, or thereabouts.

Q. Was it both born and christned in May?

A. He was born the latter End of the Month of May.

Q. Was you there at the Christning, or did you leave the Service before it?

A. It was after the Christning I left the House.

Q. What was your Service?

A. A *Chamber-maid*, my Lord.

Mr. Spring.] How long was you in that Service before this Child was born?

A. Just *three Months*.

Q. How long before this was you acquainted with *Joan Landy*?

A. Never 'till I seen her there.

Q. Do you know whether she had a Child or not?

A. I heard that she had a Child.

Q. By whom?

A. I don't know by whom.

Q. You said just now that *Mrs. Heath*, *Mrs. Butler* and *Nelly Murphy* were present at the Birth?

A. I did, Sir.

Q. Were there any more but them?

A. Indeed I don't know, for my Part I don't remember them.

Q. How long before that had you known *Elenor Murphy*?

A. I never seen her till I saw her there.

Q. What was her Name then?

A. *Elenor Howlett*.

Q. Had you ever any Children?

A. I ought to have one Boy.

Q. How old is he?

A. He's *thirty Years* of age, but I had a Son before that time.

Q. Which was in the Service first, you or *Nelly Murphy*?

A. She was in the House before me, and after to the best of my Knowledge.

Q. What is your Son's Name?

A. *Edward Cosker*.

Q. How many Husbands have you had?

A. I never married but one Man.

Q. How comes you to go by the Name of *Doyle*?

A. *Mary Doyle* is my own maiden Name.

Q. Where do you live now?

A. I live now at the Fort of *Duncannon*.

Q. How came you to stile yourself, in an Affidavit you lately made, *Mary Doyle* of *Ravilly*?

A. Because I liv'd there.

Q. How many Years ago is it since you liv'd there?

A. *Thirty Years* this May, since I liv'd there.

Q. Was you married when you liv'd there?

A. I was *five Years* before that a married Woman.

Q. Where did you live before you came to *Ravilly*?

A. In the County of *Wexford*.

Q. Where there?

A. I forget the Name of the Place.

Q. Recollect where you liv'd before you liv'd at *Ravilly*?

A. At *Harrollstown*.

Q. How long did you live there?

A. I can't remember.

Q. Where did you live before you liv'd at *Harrollstown*?

A. I liv'd in the County of *Wicklow*.

Q. Where there?

A. Oh! the Lord knows where, I can't remember.

Q. Where did you go when you left *Ravilly*?

A. To *Low Grange* in the County of *Kilkenny*.

Q. Do you know one *Daniel Hughes*?

A. I do.

Q. Did he ever live with you?

A. He liv'd in the House with me at *Ravilly*.

Q. What is he to you?

A. He's my Husband's Nephew.

Q. How long did you live at *Low Grange*?

A. I liv'd *Six Years* there.

Q. How long at *Ravilly*?

A. *Six Years*. And it was the Year that I went to *Ravilly* that I was at *Dunmaine*, for my Husband and I parted.

Q. Where did your Husband and you part?

A. We parted there.

Q. Where?

A. At *Harrollstown*.

Q. When was you brought to Bed of your Son?

A. The Lord knows.

Q. Was you in Service before you went to *Dunmaine*?

A. I was, in the County of *Wexford* and County of *Wicklow*.

Q. Where?

A. At one *Osborne's*.

Q. How long did you live there?

A. I was a *Twelvemonth* there.

Q. Was that before or after you were married?

A. Before I was married.

Q. How old do you say your Son is?

A. I say he's *Thirty Years* old next May.

Q. Where was he born?

A. I cannot remember.

Q. Do you know *Robert Cosker*?

A. I do know him.

Court.] What is the Tendency of this Examination?

Mr. Spring.] This Examination tends to prove, that she was a married Woman and lived with her Husband at the time she pretends she was a Servant at *Dunmaine*.

Q. Who was *Cok* at *Dunmaine*?

A. I don't know his Name.

Q. Did you know the *House-keeper*?

A. I don't remember.

Q. Do you remember Major *Fitz-gerald's* being at *Dunmaine*?

A. There was one *Fitz-gerald* that lay there one Night, and I don't know whether he was a Major or a Captain; the Servants told me he was one out of the County of *Carlow*.

Q. Do



*The Trial of Mrs. Mary Heath for Perjury.*

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Q. Do you remember *Sarah Weedon* ?  
 A. I never seen *Sarah Weedon* but once.  
 Q. Did you know *Mrs. Setwright* the House-keeper ?  
 A. I never knew her, I don't know what was her Name.  
 Q. Who was the *Laundress* ?  
 A. There was *Nelly Murphy* and another over her, but I don't remember her.  
 Q. Who was *Butler* ?  
 A. One *Magher*.  
 Q. Do you remember *Bourk* the *Posilion* ?  
 A. Indeed I don't.  
 Q. How long before you left the Service did *Dennis Redmond* leave it ?  
 A. He was there before me and after me.  
 Q. How long did you stay there after this Birth ?  
 A. I stay'd after the Christning two or three Days.  
 Q. Do you remember the great Eclipse of the Sun ?  
 A. I don't remember it.  
 Mr. Morton.] The next Witness will be one *Mary Freeman*, who will prove to your Lordship and the Jury, that she saw my Lady *Altham* at *Dunmaine* big with Child, and saw the Child in the care of *Joan Laffan*; that *Mrs. Heath* was particularly fond of it, and that she has seen the Child with my Lady in a Coach frequently afterwards.

20. MARY FREEMAN.

Mr. Morton.] Did you know the late Lady, *Altham* ?  
 Mary Freeman.] I did, Sir.  
 Q. Where did you first see her ?  
 A. In *Tyntern*, at *Madam Pigot's*.  
 Q. At the time you knew her there, what condition did she appear to be in ?  
 A. She appear'd to me as a Woman in her Case, with Child.  
 Q. Did she appear big ?  
 A. She did indeed, Sir.  
 Q. At what time was this ?  
 A. To the best of my Knowledge, it was a little before *Christmas* in the Year that *King George* the First came in.  
 Q. Can you recollect whether before or after *Christmas* ?  
 A. That was the time that *Esquire Pigot* had the Bonfire in *Tyntern*.  
 Q. Was it before or after that Bonfire ?  
 A. Before the Bonfire, for we had it at *Michaelmas*.  
 Q. Did you ever see my Lady afterwards, and where ?  
 A. I seen her in *Dunmaine* very often.  
 Q. When you saw her there, did you see any Child in and about that House ?  
 A. I did indeed, upon my Word.  
 Q. What Child was it ?  
 A. I seen the Child with *Joan Laffan* tending of it, at the time *Madam Pigot* sent a Letter by me there; I seen it mighty well drefs'd with *Joan Laffan* in *Dunmaine* House; at the time of the Letter I was sent with to be deliver'd to my Lady *Altham*.

Q. Did you deliver the Letter ?  
 A. I gave it to *Mrs. Heath*, into her own hands, and she went up Stairs with it to my Lady, and told me when she came down, that my Lady was unwell, and could not give me an Answer.  
 Q. Did you see the Child at that time ?  
 A. I did see the Child that very instant in the Presence of *Mrs. Heath*.  
 Q. Was *Mrs. Heath* present ?  
 A. It was in her Presence the Minute that I deliver'd the Letter; *Joan Laffan* was in the Kitchen with the Child in her Arms.  
 Q. What time of the Year was this ?  
 A. It was about this time of the Year, I can't tell what time.  
 Jury.] Are you sure that *Mrs. Heath* was present and saw the Child ?  
 A. *Joan Laffan* had the Child in her Arms in the presence of *Mrs. Heath*, when I deliver'd the Letter to her.  
 Mr. Morton.] At the Time you saw this Child, then or any other Time, what Notice did you see *Mrs. Heath* take of it ?  
 A. Why indeed, Sir, upon my Word, I know no more than that I was going to the Fair of *Rofs*, and I saw her bring out the Child, and she put a Bundle of Cloaths into my Lady's Coach —  
 Q. But I ask you, whether at the time that you saw this Child when you went with the Letter, and then observed this Child in *Mrs. Heath's* presence, you observ'd *Mrs. Heath* to take any Notice of it ?  
 A. She did take Notice of it, particular Notice, and was playing with it; indeed she was.  
 Q. How old was the Child then ?  
 A. It was about a year and half old, to the best of my Knowledge.  
 Q. What sort of a Child was it ?  
 A. It was a very pretty light headed Child.  
 Q. Did *Mrs. Heath* take Notice of it as the Child of a Person of Consequence ?  
 A. She did indeed.  
 Q. As the Child of whom ?  
 A. As a Gentleman's Child.  
 Q. Whose Child was it consider'd to be ?  
 A. It was consider'd my Lady *Altham's* and my Lord's, as I heard, it was call'd the young Lord's young *Jemmy Annesley*; any other I can't tell you.  
 Q. I ask you whether at any time after this, you saw this Child in Company with Lady *Altham* ?  
 A. I did.  
 Q. Where was the next Place ?  
 A. I did not see it after that time to the best of my Knowledge, 'till I seen him at *Rofs* at *Madam Butler's*.  
 Q. Who did you see him with there ?  
 A. He was in *Madam Butler's* Arms, for he was brought from *Dunmaine* that very day, and she receiv'd the Child and carried it up Stairs to my Lady.  
 Q. Who brought it to *Rofs* ?  
 A. I can't tell.  
 Q. At this Time in whose Company was it ?  
 A. There was no body but *Mrs. Heath* that came down Stairs.

L

Q. Now



Q. Now I ask you whether the Child that you saw after at *Ross* was the same you saw at *Dunmaine*?

A. I can't tell that, Sir, but the Child was there.

Q. Was Mrs. *Heath* present at *Butler's*?

A. She was indeed.

Q. Did she at that place take any Notice of the Child?

A. I can't tell you, Sir, it was at the head of the Stairs, and I can't tell that.

## CROSS EXAMINATION.

Mr. Ed. Malone.] Do you remember the year that you saw my Lady with Child?

A. The Year King *George* the first came in.

Q. Was she big with Child then?

A. She was.

Q. You say it was the Year King *George* came in?

A. It was the Year he came in.

Q. Was it not about *Christmas* you said?

A. And was not that the Year King *George* came in?

Q. I ask you if you did not say you saw my Lady big with Child about *Christmas*?

A. It was about *Christmas*.

Q. Where did you see her then?

A. At *Tyntern*.

Q. Was it before or after *Christmas*?

A. It was before.

Q. You went from Mrs. *Pigot's* with a Letter to *Dunmaine*?

A. I did, Sir.

Q. What Time of the Year was it?

A. In the Spring.

Q. Of what Year.

A. I can't tell as to that.

Q. Was it the next Spring after you saw her with Child?

A. Indeed it was not, nor the Spring after.

Q. See if you can recollect the Year?

A. I can't recollect the Year.

Q. You knew Counsellor *Pigot*?

A. I knew him very well.

Q. Had any Accident happen'd to him then?

A. No, Sir, it was after.

Q. How soon after?

A. I don't know.

Q. Did not he break his Leg in the County of *Tipperary*?

A. I can't tell that.

Q. Do you remember the Time he broke his Leg?

A. I was not in the Family then but in the Town.

Q. Was Mrs. *Pigot* at home when he broke his Leg?

A. I believe so.

Q. Did she go to him?

A. She went to him.

Q. Did she go from *Tyntern* to him?

A. She did.

Mr. Serjeant Marshall.] The next Witness is one *Thomas Elton*, by Trade a *Glazier*; he was call'd to *Dunmaine* upon some necessary Repairs of that House some time after the Birth of Mr. *Annesley*; and he will give your Lordship an Ac-

count that he saw this Child in the House, when he was there at Work, greatly taken care of by his Father and Mother, and I believe by the Prisoner at the Bar.

Court.] If you have any new Witnesses to any new Matter produce them; you've produc'd Witnesses to all the Points of the Indictment already.

21. THOMAS ELTON.

Mr. Serjeant Marshall.] Pray, Sir, what Trade do you follow?

Thomas Elton.] I'm a *Glazier*.

Q. Do you know a Place call'd *Dunmaine*?

A. I do, Sir.

Q. Were you at any time and when at that House?

A. I serv'd my Apprenticeship in *Ross* to *James Morris* of *Ross*, and I was at *Dunmaine* House several times.

Q. In what Year?

A. To the best of my Memory, I was bound Apprentice in the Year 1715.

Q. And what Time was you at *Dunmaine* House?

A. I was there I believe at several times.

Q. Name any particular Time?

A. I was there in that same Year and in 1716 and 1717, and 'till the Separation of my Lord and Lady was.

Q. Who did you see there?

A. The Lord and the Lady was there.

Q. Whom else did you see?

A. I seen *Arthur* Lord *Altham* and his Lady, I seen *Mary Heath*.

Q. Do you know any other of that Family that were there?

A. I've remembred to see a Child there.

Q. What Child was that?

A. A Child as I thought was the Son of *Arthur* Lord *Altham*.

Q. Where was Lady *Altham* when you saw this Son?

A. In the House, Sir.

Q. In what Manner was this Child treated?

A. If you please I'll tell you. I'm a *Glazier* by Trade, and at Work in the House at several Times I was.

Q. What Year was this that you saw the Child?

A. In the Year 1716, to the best of my Knowledge; and, upon the same, I was up in the Lady's Chamber at Work, and a Messenger came up, I did not turn my Face about, nor don't know who it was, and I heard a Messenger say, young Master is below: in some time after my Lady call'd *Mary Heath*, and said, *Go and bring up my Child*. With that, I seen the Child coming up, and upon the same, my Lady embraced it as she was sitting upon the Bed.

Q. What Year was this?

A. I think it was 1716. And she kept it there, during the Time I was at Work, which was close upon an Hour.

CROSS



CROSS EXAMINATION.

Mr. Recorder.] Say in what time of the Year 1716 this was?

A. I can't tell.

Q. Was it in Spring, or Summer or Winter?

A. I can't tell, upon my Word.

Q. Was it after, or before *Christmas*?

A. Indeed I can't tell, Sir.

Q. Upon your Oath, was not it in the Year 1717?

A. Upon my Oath, it was not in 1717.

Q. Well then, what time was it in 1716?

A. I can't tell, Sir.

Q. Upon your Oath, was it in 1716?

A. It was in 1716, but I can't particularly guess at the time; I can't contain that, it is so long ago.

Mr. Proby. Juror.] How old was the Child?

A. As near as I can guess, *a Year and half* or thereabouts.

Q. Did you ever hold any Discourse within these few Days with any body upon the Road?

A. I did not, upon my Oath.

Q. Did you see no body in a *Finglass Chaise* between *Kilcullen-Bridge* and this?

A. I believe I saw your Face.

Q. Do you remember what you told me then about your Knowledge of this Affair?

A. I don't remember.

Mr. Proby.] You told me then you had a *Subpœna* the Day before, and thought it was very hard you should not know sooner what you had to swear; and swore by your Maker there, you knew nothing of the Matter. You said further, you were in so great a Passion you threw the *Subpœna* and Shilling into the Fire.

N. B. Witness *Elton* produced a Paper and said here is the *Subpœna*.

Mr. Solicitor General.] I am now, with some Satisfaction, to inform your Lordship that we shall call Mr. *Higginson*; he's a Person of some Reputation. We should not call him so early, but that he is falling sick and not able to attend any longer. This Gentleman will endeavour to prove that he was at *Dunmaine* at the time of the Affizes of *Wexford*, and we will now produce him, though out of time, to shew where my Lady was at that time, and of her being then with Child. You'll observe he's now call'd by way of Anticipation, and before his time.

Mr. Proby.] My Lord, I have something further to mention that this Man told me, which I had forgot.

Mr. Serj. Marshall.] I desire, my Lord, that Mr. *Proby* may be sworn.

Court.] You must be sworn, Sir.

Mr. Proby sworn to give Evidence to the Court, and his Fellow-jurors] When he told me that it was very hard he should have such short Warning and did not know what he had to swear, I desir'd him by all means to make haste, for the Trial would be very soon, to get to Town and be instructed there. So I will, says he, and immediately he set into a Gallop, and I never saw him till now since.

Mr. Serjeant Marshall.] What were the Words he said to you?

A. He told me, that he was in such a Passion, that he threw the *Subpœna* and the Shilling into the Fire.

Mr. Solicitor.] It shews he was a most unwilling Witness.

Mr. Proby.] His Words were these, *By G—d I know nothing of the Matter.*

Mr. Serjeant Marshall.] Don't you apprehend that the Man meant by that, that he did not know any thing of the Birth of this Child?

A. I can't tell what he meant.

Q. Upon your Oath, Sir, what do you think he meant?

A. Upon my Oath, Sir, I believe from the subsequent Expressions, that he knew nothing at all of the Affair.

Q. Might not such a Person as you saw here clearly imagine, that his seeing a Child in that House was nothing material, if he knew nothing of the Birth of that Child?

A. He told me he was summon'd on the Trial between the old and young Lord, and swore by *G—d* he knew nothing of the Matter.

Q. But might not he think that he knew nothing material?

Mr. Recorder.] The Jury will judge of that.

22. Mr. THOMAS HIGGINSON.

Mr. Solicitor.] Mr. *Higginson*, pray, did you know the late Lord and Lady *Altham*?

Mr. Higginson.] Yes.

Q. Do you remember to have seen either of them, and when, in the Year 1714 or 1715?

A. I saw Lord *Altham* very often; I had the Honour to receive from the Year 1710, *Arthur*, Lord *Altham's* Rents for Part of his Estate.

Q. You saw my Lord *Altham* very often?

A. I saw him very often.

Q. Do you remember to have seen either of them about the middle of *April* 1715?

A. Yes, the middle of *April* 1715 I call'd at *Dunmaine*.

Q. How came you to call there?

A. I was Receiver to *Arthur*, Lord *Altham*, and *Arthur* late Earl of *Anglesey*.

Q. Go on, and give an Account of what you know of this Family?

A. My Lady I saw when I call'd at *Dunmaine*, my Lord was not at home.

Q. Do you know any thing of her being with Child?

A. That time I saw her, *I took her to be big with Child.*

Court.] What time was that?

A. In the middle of *April* 1715.

Mr. Solicitor.] What time in *April* do you say?

A. The middle, in *Easter Week* 1715.

Q. Where did you see her then?

A. At *Dunmaine*.

Q. Inform the Court and Jury what Look or Appearance she had of being with Child?

A. She appeared to be *big with Child* to me, and towards the last Month of her time.

Q. Tell us wherefore it is that you have made yourself sure it was then?

A. I had a Pocket-book in which I kept my Memorandums; I was receiving Rents for the Earl of *Anglesey*, and I sent my Son to receive the Rents of the *Nanny-water* Estate for Lord *Altham*; I knew he would be at home with the Money; and I call'd there for Lord *Altham* to send one to *Eniscorthy* with me for the Money.

The



The Witness's Voice being Weak, Mr. Smith, an Officer of the Court, is directed to repeat what he should say.

Mr. Smith.] Tell what you say, Sentence by Sentence, and I'll repeat it.

Mr. Higginson.] I call'd to see if Lord Altham was at home to send one with me to Eniscorthy, to get some Money for himself.

Q. Did you see my Lady or my Lord at that time?

A. My Lady only.

Q. How can you be particular concerning the time of your being at Dunmaine?

A. Because the Days that I receiv'd Lord Anglesey's Rents I had it entred in my Pocket Book, and I gave the Book to the Prime Serjeant Malone at the last Trial.

Q. What were the Contents of that Book?

A. Lord Anglesey's Receipts.

Q. You say Lady Altham look'd like a Woman big with Child?

A. She did.

Q. What Conversation had you with her then?

A. Very little, only that I ask'd for my Lord, and told her what I call'd for; for I dared not go into the House, for if I had, Lord Anglesey would have turn'd me out of the Receipt of his Rents.

Q. Tell what pass'd between my Lady and you?

A. I told her I call'd to get my Lord to send one with me to Eniscorthy, and my Lady came down and made me drink, and I drank a good Deliverance to her Ladyship in two Glasses of White Wine.

Q. Who did you see with my Lady?

A. The Maid was there; but I don't know her Name.

Q. Now tell us how did you dispose of yourself after you left Dunmaine?

A. I went to Eniscorthy, and dined with Major Rogers that Day there.

Q. Where did you go from thence?

A. To a Friend's House in Wexford early next Morning. Thursday Morning.

Q. Recollect the Day you were at Dunmaine?

A. I was there on Thursday going, and Tuesday coming back.

Q. What Day did you go from Dunmaine to Eniscorthy?

A. I came from Dunmaine to Eniscorthy on Tuesday.

Q. How long did you stay at Wexford then?

A. Not above an Hour I believ'd, we had but one Pint of Wine.

Q. Did you see Lord Altham at that Assizes?

A. Yes, he gave me the Receipt.

Q. Did you see my Lady there?

A. No, I did not, nor hear of her.

Q. Do you believe, if she had been there, you would not have known it? Could she be there, and you not see her?

A. She might be there for me.

Q. Pray, Sir, you say you were Receiver to my Lord Anglesey, did there come any Account to the Earl of Anglesey of the Birth of a Child?

A. Several of Ross Tenants did come to Lord Anglesey in July.—

## CROSS EXAMINATION.

Mr. Le Hunte.] Pray, Sir, don't you say that you were at Dunmaine on Easter-Tuesday?

A. I was there on Thursday and Tuesday.

Q. Was you there on Easter Tuesday?

A. I was.

Q. What Year was it?

A. By my Books on Easter Tuesday in the Year 1715.

Q. Where was you the Monday before?

A. I believe I was at Mr. Giffard's; I was at Houghton's; I know I was in that Neighbourhood on Easter Monday.

Q. Upon your Oath, Sir, where were you on Easter Monday?

A. I believe I was at Mr. Thomas Houghton's on Easter Monday.

Q. How near is that to Dunmaine?

A. I believe four or five Miles.

Q. Why are you so certain of being at Dunmaine and at Houghton's on Easter Monday and Tuesday?

A. Those were the Days I receiv'd Money, and they were entered in my Book, that is the Reason of my Certainty.

Q. Do you know a Place call'd Peppard's-Castle?

A. I do know it.

Q. How far from Dunmaine is Peppard's-Castle?

A. Which way would you have me go?

Q. The common Road? How many Miles distant is it?

A. I believe sixteen Miles.

Q. Where were you upon Easter Sunday?

A. I believe at Clomines.

Q. How near is that to Dunmaine?

A. Four or five Mile, I don't know well.

Q. How far is Clomines from Peppard's Castle?

A. I believe about as far as Dunmaine, it can't be less than sixteen Miles.

Q. Look at that Paper and see if it be your Hand-writing, is that your Name?

A. I believe it is.

Q. When you gave Receipts, did you date them on the Days the Tenants paid you the Money?

A. Some I did, and some I did not.

Q. Explain yourself?

A. When I would go abroad, I would leave Receipts drawn according to the Days the Tenants promised to pay their Rents, some with my Wife, and some with my Son, and some with Timothy Murphy that receiv'd for me.

Q. Is that all your Hand-writing?

A. I believe it is.

Mr. Le Hunte.] I desire that Paper may be read against himself?

Clerk of the Crown.] Receiv'd from Mr. William White now and formerly the Sum of twenty five Pound Sterl. in full his last Michaelmas Rent, due out of Peppard's Castle, &c. to the Right Hon. Arthur Earle of Anglesey; receiv'd by his Lops Order this 18th April 1715.

25 l. 0 0

Tho. Higginson.

Court]. That is Easter Monday that Year?

Mr. Higginson.] I'll tell your Lordship how that was. I was to pay Major Rogers Money for Timber for my Lord Anglesey, and I left my Son the



the Receipt to get the Money, who was to meet me there with it.

Q. Is the Date your own Hand?

A. Yes, I believe it is.

Q. And did you date Receipts before you received the Money?

A. Yes, very often.

Mr. Le Hunte.] What time did you enter this Receipt in your Book?

A. When I came home again

Q. When was that?

A. I entered it on Wednesday, when he brought me the Money to Eniscorthy.

Q. What Money did he bring?

A. He brought me sixty odd Pounds; I gave him eight Receipts to call upon the People with them, and I got the Money on Wednesday.

Q. When did you enter those Receipts in your Book?

A. I believe I entered them before I went from home.

Q. How so?

A. Because they promised me the Payment.

Q. Did you draw this Receipt at the time that it bears date?

A. I gave this Receipt to Tim Murphy or my Son before I went away, and they told me they would be there that Day with the Money.

Q. See if this be your Book and Hand-writing?

A. It is.

Q. Was this Book kept by you?

A. It was. I lent it to Mr. Wilson.

Q. Is that Entry your Hand-writing?

A. It is my Hand-writing.

Q. When was it entered?

A. It was entered when I came back.

Mr. Mark Whyte.] Reads the Title, viz.

Peppard's- Castle	Mr. William White	is	Debtr.	Year Month and Day	Contra	is	Credr.	
				1715				
				March 28	2 Bills		4 10	
				April 18	Dit. in full Michaelmas		11 17 8.	
					1714			

Mr. Le Hunte.] Where was this Book kept?

A. When John Wilson came to receive the Rents of Lord Anglesey after me I lent it to him.

Court.] Can you now say that it was the 18th of April, Easter Tuesday, that you were at Dunmaine, since it appears by your Book you entered Receipts of that Date elsewhere?

A. I left eight Receipts for my Son and Murphy, to give the People that paid the Money.

Q. How came you to enter them the fifteenth and eighteenth?

A. Because they were to go there them Days.

Q. Since your Book shews your hand-writing at another place, the time you say you were at Dunmaine, can you, from any other Circumstance, recollect that it was Tuesday the 18th of April that you were at Dunmaine?

A. I believe it was Tuesday the 19th by my Pocket Book.

Court.] See and get an Almanack for the Year 1715.

Q. Does your Pocket Book and this Book contain the same things?

A. The Pocket Book is of different Things from this Book.

Mr. Le Hunte.] Did not you swear on the Trial in the Exchequer that you received four Pounds from Mr. Houghton the Day before you went to Dunmaine?

A. I believe so.

Q. What Day did you receive that Money?

A. I believe it was on Monday Morning.

Q. What was the Denomination that Rent was paid for?

A. I don't know indeed, I know no Denomination now but only Ballysop and Dunmaine.

Q. Did not you swear that you received from Mr. Giffard of Ballysop Ten Pounds on Tuesday?

A. Yes, I did.

Q. Was not that the Day you went to Dunmaine?

A. Yes, I believe I did that Morning.

Q. Did not you say, you received from Patrick Sutton Twenty Pounds the Day before?

A. I received some on Friday and Saturday, and wanted Forty Shillings; and they sent it after me on Monday.

Q. Did you swear, or did you not, that you received Sutton's Money on Monday?

A. I did not on Monday. I wanted about Forty Shillings, and I got that on Monday or Tuesday following.

Q. Upon your Oath, Sir, did you not swear that you received Twenty Pounds from Colonel Sutton on Monday?

A. I don't know whether I did or no; I did receive Twenty Pounds in all; but I said then as I say now, that there was Forty Shillings behind and he sent it after me on Monday.

Q. What Day did you receive the Money from Mr. Giffard?

A. On Monday I believe.

Q. What did you receive the Money from Mr. Sutton for?

A. It was for the Rent of Clomines.

Q. Look at that Book now; is that your hand-writing?

A. The upper part is, that is my hand-writing.

Q. And whose is the other?

A. This is my Son's; I told Counsellor Ford so before, at Wexford.

Clomines	Col. Wallis	is	Debtor	Year Month and Day	Contra	is	Creditor	
	Arrears			1713.				
				November 30.	Per Higginson's Account		233 14 11½	
				His own Writing, 1714 June 17th.	Do.		48 00 00	
				November 2d.	Do.		52 00 00	
				His Son's Writing, 1715 April 5th.	Mr. Giffard		30 00 00	
					His own Writing.		363 14 11½	

M

Q. Were



Q. Were you present at the Time it was entered?

A. No, he was at *Ross*, and *Joe White* the Merchant gave him a Bill for Thirty Pounds, and I allowed this as Cash, the Tenants all receiv'd it as Cash, they had a share in it and I allowed it as Cash.

Q. Why did not you make your Entries in your Book at that period of time?

A. I had not that Book with me; I had lent it to *John Wilson*.

Q. Was the Money paid by the Tenants at the Time set down in the Book?

A. That was the Bill that every one of them had a share in.

Q. Was the 30l. receiv'd on the 5th of April?

A. The Bill was.

Q. Did not you swear you receiv'd the 30l. on Monday?

A. It was good 30l. to me, and so I swore I receiv'd it on Monday.

Q. Where is your Pocket Book?

A. I have it not now.

Q. Did not you swear upon your former Examination in the *Exchequer*, that you were Agent to my Lord *Anglesey* from the Year 1711, to the Year 1717?

A. No, not till the Year 1717; no, if it be 1717, it is wrong printed.

Q. Upon your Oath, was not you Lord *Anglesey's* Agent in the year 1717?

A. I was not discharg'd till 1718 or 1719 for that matter, but Mr. *Wilson* came in before that.

Q. Did you continue Agent for my Lord *Anglesey* after the Year 1717?

A. No, nor that year, but I receiv'd for him in 1716.

Q. You receiv'd in the Year 1716?

A. I did then in several Places.

Q. Upon your Oath, did you in 1717?

A. I can't charge my Memory; I'm sure I did in 1716.

Q. Look at this Bond, and see if it be your hand-writing?

A. I did see it, it is.

Mr. Le Hunte.] My Lord, this Bond is to shew that he was discharg'd long before this time, and we desire it may be read.

Mr. Mark Whyte.] Reads part of the Bond, which bears date the 26th Day of December 1715.

Mr. Le Hunte.] Did you ever settle any Account, subsequent to the Account in this Book?

A. Yes, I did; Six Months after.

Mr. Solicitor.] Would you be understood that that was the Book you carried about with you?

A. No, this was the Book that was left at home.

Q. What Book did you take with you commonly?

A. I carried a little Pocket Book about me.

Mr. Recorder.] When you came home to that Book, did you make Entries different from your Pocket Book?

A. Some I did.

Q. How so? then you had no certain Guide for keeping your Accompts?

A. Whenever I was promised any Money, I entered it down in that Book the Day I expected to receive it, and left Receipts with my Wife or Son, for I was very much abroad.

Q. How could you enter the Day before you knew you would be paid?

A. They would keep the Receipts till they got the Money.

Mr. Serjeant Marshall.] My Lord, I desire the whole Conditions and all the Bond may be read; Mr. *Whyte* read only a part of it, and I must insist upon the whole being read, to shew that he might have received the Rents for a Year after the Date thereof.

Mr. Bowden.] Reads the Bond, as follows.

KNOW all Men by these Presents, that I *Thomas Higginson* of *Rabingurrian* in the County of *Wexford*, Gent. am held and firmly bound unto the Right Honourable *Arthur* Earl of *Anglesey*, in the Sum of one thousand Pounds Sterling, lawful Money of *Great Britain*, to be paid to the said *Arthur* Earl of *Anglesey*, or his certain Attorney, Executors or Administrators, to the which Payment well and truly to be made, I do bind myself, my Executors and Administrators, firmly by these Presents, sealed with my Seal, and dated this Twenty Sixth Day of December, Anno Dom. 1715.

Whereas the above-named *Arthur*, Earl of *Anglesey* did constitute and appoint the above bound *Thomas Higginson* to be Collector and Receiver of his Rents, arrears of Rents, Revenues, Duties and Profits of his Lordship's Estate in the County of *Wexford* for some time past. And whereas the said *Arthur*, Earl of *Anglesey* did on the first Day of May last annul and make void the said Power. Now the Condition of the above written Obligation is such, that if the said *Thomas Higginson*, his Executors or Administrators, do and shall, on or before the first Day of May next ensuing the date of these Presents, deliver up to the said *Arthur*, Earl of *Anglesey*, his Heirs or Assigns, a just and true account of all such Rents, Duties, arrears of Rents, Fines, Issues, Goods, Chattles, Profits and Perquisites, as he the said *Thomas Higginson* hath at any time heretofore levied or received for the Use of the said Earl, as his Collector or Receiver, and do and shall then pay, or cause to be paid unto the said *Arthur* Earl of *Anglesey*, his Heirs or Assigns, all such Sum and Sums of Money, as shall then appear to be and remain due to the said Earl, his Heirs or Assigns, on ballancing of such accompts; and also do and shall at any time when demanded, well and truly account for, and pay unto him the said *Arthur* Earl of *Anglesey*, his Heirs or Assigns, any Sum or Sums of Money, that shall or may at any time or times hereafter within the Space of one Year from the Date above mentioned appear to have been received by him, the said *Thomas Higginson*, for the use, or on the account of the said Earl; and not accounted for with him, by the said *Thomas Higginson*, on or before the said 1st Day of May next ensuing (if any such there be) that then the above Obligation shall be void, or else it shall stand in full Force and Virtue.

Sealed and delivered in Presence of us,

Den. Brien,  
*John Wilson*, Junior.

*Tho. Higginson*.  
715.

Mr. Serjeant



Mr. Serjeant Marshall.] He had a right, it appears, to collect all the Arrears that were due, for a Year, he had a Year allowed him to gather them in.

Mr. Recorder.] The Bond says, if it shall appear within the space of one Year, that he had received any Sum or Sums of Money ; but there is no Power given him to receive any Rents.

Mr. Le Hunte.] Were not you Tenant to part of Arthur, Lord Altham's Estate ?

A. Not at all.

Q. Did not you hold a House from him in Ross ?

A. I never had a House in Ross.

Q. Who came into Possession of Lord Altham's Estate upon his death ?

A. I don't know, I was not employ'd then.

Q. Was you Receiver to Lord Altham, till his death ?

A. No, till the Year 1717 or 1718.

Q. How far is Ballydaboy from Dunmaine ?

A. I can't tell.

Q. How near is it to Peppard's-castle ?

A. I believe within a mile.

Q. Is that your hand-writing ?

A. Yes, I saw it before.

Q. Look at it again, was it entred the time it bears date ?

A. I believe, the Wednesday before I left home.

Q. How came you to enter it then ?

A. There was a Fair to be on the 19th, and that was the reason.

Ballydaboy, &c.	Law : Nangle	is Debtr.	Year Month and Day	Contra	is	Credr.			
			1715	Ditto			1	16	6
			April 19th.						

The Bond is given to the Jury.

Mr. Serjeant Marshall.] You'll observe, Gentlemen, there are two Clauses in the Bond, the first that he shall account for all Sums receiv'd ; and the next that he shall account for all Sums he should receive.

Court.] Not at all ; he was superseded.

Court.] If you mean to produce other Evidence to the same thing, I shall stop you ; we have been near twelve Hours in Court, and cannot adjourn.

Mr. Edmond Malone.] And they said, my Lord, they would not take up eight Hours in ten, if the Trial should hold no longer.

Court.] Let us know your next Witnesses, and what to be examined to ; say what they are.

Mr. Serjeant Tisdall.] The next is one John Warren, produced to the same purpose of several others.

Court.] Let him stay then. Is he a Man of Figure ? What's his Addition ?

Mr. Serjeant Tisdall.] He's a Gentleman, my Lord.

Court.] Let me tell you, there is no Safety in a multitude of Witnesses.

Mr. Serjeant Tisdall.] A multitude of People agreeing to the same Fact greatly corroborates it.

#### 23. Mr. JOHN WARREN.

Mr. Serjeant Tisdall.] Mr. Warren, was you ever at Dunmaine ?

A. I never liv'd at Dunmaine, but I belong'd to one Mr. Chambers, that liv'd at ———, and went there several times about his Business ; my Lord's Steward would buy fat Sheep from him.

Q. Were you ever at Dunmaine, Sir, while my Lord and Lady Altham liv'd there ?

A. I was there several times whilst they liv'd there.

Q. Did you see ever a Child there ?

A. Indeed I did see a Child there.

Q. What sort of a Child ?

A. They call'd him *Jemmy*, he was a Boy.

Q. Whose Child was he ?

A. I don't know whose Child, but my Lady call'd him her Child, and came one Evening and ask'd, how does my Child do, putting out her Hand to him.

Q. Who did you see the Child with ?

A. With a Servant.

Q. Can you say whose Child it was ?

A. It is impossible for me to know whose Child it was, my Lord call'd him his Son.

#### CROSS EXAMINATION.

Mr. Le Hunte.] How do you get your Livelihood.

A. I have a Livelihood.

Q. Have you any Trade ?

A. I have no Trade.

Q. Upon your Oath, are not you a Beggar ?

A. I am not ; I have something of a Livelihood.

Court.] Unless you can now tell us what your Witnesses will say, I assure you we won't have the time of the Court taken up in this manner.

Mr. Archdale.] For my part, my Lord, if they bring a hundred such Witnesses, I'll never think it worth my while to listen to them.

Mr. Daly.] We'll bring but as few as we possibly can.

Mr. Recorder.] We shall bring very good Witnesses, and come to the Point as soon as we can, when we begin our Defence ; but these Gentlemen I perceive won't give us an Opportunity.

Court.] Unless you have something new to offer, or a Man of greater Figure or Honour to corroborate what these Witnesses have said, we shan't hear him. If you have any Person of undoubted Credit, in the Name of God, produce him.

Mr. Mac Manus.] We have many more to examine, and those, Witnesses of undoubted Credit, and I hope the Court will indulge us so far as to hear their Evidence. We have examin'd many 'tis true, and I beg leave to say there has been a great Consistency of Truth in their Testimony, and they have sworn very materially



terially; and, my Lord, if we falsify the Tra-  
verser in any one Point we will falsify her in the  
whole; we have twelve Men of Honour to try  
her, and I desire we may be permitted to call  
*Robert Kennight*, he is a very material Person in  
my Brief.

Court.] What is it that you produce him  
to?

Mr. Mac Manus.] He is a material Witness  
upon my Paper; he will prove to your Lordship  
that Lady *Altham* (which is the first Point before  
you upon this Perjury) was big with Child. My  
Lord, they won't let me open his Evidence any  
further, because he's here.

Court.] Bring him up.

## 24. ROBERT KENNIGHT.

Mr. Mac Manus.] Did you know the late Lord  
and Lady *Altham*?

Robert Kennight.] Yes, I did.

Q. Where did you live when you knew  
them?

A. In *Garryduffe* first.

Q. Did you know them while they liv'd at  
*Dunmaine*?

A. I did, Sir.

Q. How far from that did you live?

A. In the Bounds of *Dunmaine*, they join to-  
gether.

Q. Was my Lady, or was she not with Child at  
any time that you knew her at *Dunmaine*?

A. In my Opinion she was.

Q. Have you any Reason for that Opinion?

A. All the Reason I have for it is, because I  
seen her big and like a Woman with Child.

Q. Did you see any Child in the House of  
*Dunmaine*?

A. I did.

Q. Did you know of any Bonfires and Rejoy-  
cings upon any and what particular Occasion?

A. I did, for Joy about the young Child that  
my Lord and Lady had.

Q. Pray do you know Mrs. *Heath*?

A. I never knew her, I made no Acquaintance  
with her.

Q. Do you remember to have seen her at *Dun-  
maine*?

A. I never did see her or know her at all.

I shall ask him no more Questions.

Court.] How many Bonfires were there  
made?

A. None but one.

Q. Where was it?

A. At the great House, in the Back-side in the  
Avenue.

Mr. Solicitor.] My Lord, we have examined  
such a prodigious number of Witnesses to one  
Point, that, if my Judgment had prevail'd, you  
should have had an end of them long ago; but  
we shall now call our last Witness for the present,  
and trouble your Lordship no more, except in  
the Counter Proof upon the Reply we should  
have Occasion to produce fresh Proof. This  
Witness is a Witness that was examin'd upon the  
last Trial in Ejectment in the *Exchequer*, her Name  
is *Joan Laffan*.

Court.] Why did not you call her first?

Mr. Solicitor.] We look upon her to be a very  
material one, and hope she'll satisfy your Lordship  
and the Jury of this whole Affair.

Court.] I was wondering what was become of  
her all this Time.

## 25. JOAN LAFFAN.

Mr. Serj. Tisdall.] Mrs. *Laffan*, did you know  
my Lord and Lady *Altham*?

Joan Laffan.] Yes, Sir.

Q. Was you ever a Servant there?

A. Yes, Sir.

Q. What was your Service?

A. I was *Chamber-Maid* when I came there  
first.

Q. What Time did you come there first?

A. The year after the Death of the Queen; I  
was at Colonel *Deane's* at her Death, and came the  
year after to Lord *Altham's*.

Q. Pray, how long did you continue in that  
Employment of *Chamber-Maid*?

A. About a Year and half, and then I was em-  
ployed to nurse Master *Jemmy Annesley*.

Q. How old was he then?

A. Near upon a Year and half, or there-  
abouts.

Q. Pray now, whose Child was he?

A. My Lord and Lady *Altham's*.

Q. By whom were you employ'd to nurse  
him?

A. By my Lord and Lady *Altham*.

Q. Pray, what time did you go into my Lord's  
Service?

A. To the best of my Knowledge, it is the *Har-  
vest*; I liv'd at Colonel *Deane's* 'till after King  
*George* the First came in better than half a year,  
then I left it and was a little while with my Friends,  
and then went to Lord and Lady *Altham's*.

Q. Pray, can you tell in what Month you went  
there?

A. I cannot recollect the Month, but, to the best  
of my Knowledge, about *Harvest*.

Q. In what Year was it?

A. I can't exactly tell what Year.

Q. But you say it was the year after the King  
came in?

A. The year after or thereabouts.

Q. How long after you liv'd as a *Chamber-  
Maid* was this Child put into your Care by my  
Lady?

A. Near upon a year and half after, or there-  
abouts.

Q. Who was it put the Child into your  
Care?

A. Lady *Altham*.

Q. Pray, did Mrs. *Heath* know that you took  
Care of it?

A. She did, Sir.

Q. Where was the Child before he was put into  
your Care?

A. The Child was at Nurse before; when he  
came from the Wet Nurse, he was put into my  
Care.

Q. Pray now, how old was the Child when  
you were hired?

A. I believe the Child was three or four Months  
old when I was hired, there or thereabouts.

Q. How



CROSS EXAMINATION.

Q. How old do you say he was ?  
 A. About *three Months*, or better, I can't exactly tell that.  
 Q. How old was the Child when put into your Care ?  
 A. *Near upon a year and half*.  
 Q. How long after you were hired was he put into your Care ? About what time of the Year ?  
 A. *About a year and half after*.  
 Q. Was you a Year and half *Chamber-Maid* before you had the Care of him ?  
 A. Yes, I believe I was near upon it.  
 Q. How long did you attend this Child before my Lady went away ?  
 A. *Half a Year*.  
 Q. How long did you attend the Child before my Lord and Lady parted ?  
 A. *About two years old the Child was when they parted*, so that I attended him *half a year* before my Lady went away.  
 Q. Before this Child was put into your Care where was it ?  
 A. At the Wet Nurse.  
 Q. You say, that before this Child was put into your Care it was put unto the Wet Nurse ?  
 A. Yes.  
 Q. Was it ever brought up by her to *Dunmaine* House ?  
 A. Yes it was, sometimes my Lady would go on fine Days and fetch it in the Coach with her, and the Nurse would bring it other Times.  
 Q. Was Mrs. *Heath* in the Service then ?  
 A. She was indeed.  
 Q. Pray how did my Lady behave to it ?  
 A. My Lady was very fond of it.  
 Q. Who used to dress the Child ?  
 A. Mrs. *Heath* dress'd it, it's Day Cloaths were kept in the House and the Child was dress'd by her and my Lady, and the Night Cloaths were kept with the Nurse.  
 Q. How did Mrs. *Heath* treat this Child ? Was she employ'd in any Sort about it ?  
 A. Sometimes to dress him and take him in her Arms that way, very fond, I know that when there were Jellies made or Jellies left, it was given to the Nurse and put into her Whey and Broths to drink.  
 Q. Was you at *Dunmaine* at the Time of the Separation ?  
 A. I was there.  
 Q. Where was this Child then ?  
 A. In the House.  
 Q. How did my Lady behave to the Child at parting ?  
 A. She desir'd very hard to take the Child with her, and my Lord would not let her have him.  
 Q. Pray, was there any thing happen'd particular to the Child at the time of the Parting ?  
 A. My Lady desired very hard to have the Child ; she sent down for Mr. *Taylor* to come up and hand her down Stairs ; so, when he came up, I hope, says she, you had not a Hand in this wicked Plot contriv'd for me. He said, No, he had not. Says She, if you are so good as to prevail on my Lord to let me have the Child, I don't care if I never set my Foot in *Dunmaine* again.  
 Q. What happen'd upon that ?  
 A. I know that she said so, for I stood at the Stair-head when Mr. *Taylor* handed her down Stairs.

Mr. Spring.] Where was you hired into the Service of Lord and Lady *Altham* ?  
 A. My Lady hired me.  
 Q. Where ?  
 A. In her own House.  
 Q. Are you sure my Lady hired you ?  
 A. She did indeed ; she did not know me and she sent to a Gentlewoman to get a Character of me, and she said she would give her word for 1000 *l.* for me.  
 Q. Who was that Gentlewoman ?  
 A. It was Mrs. *Synnot*, she sent her Footman to her.  
 Q. You say my Lady was at *Dunmaine* at that Time ?  
 A. She was.  
 Q. Upon your Oath, did she continue the whole Month of *August* at home ?  
 A. I can't tell whether she did or not.  
 Q. Was she or was she not at home the Month of *August* ?  
 A. I can't tell whether she was at home or not.  
 Q. Did she lye a Week abroad at any time in *August* ?  
 A. I can't Recollect.  
 Q. Was she a Fortnight abroad in *August* ?  
 A. I can't tell.  
 Q. Was she the whole Month of *August* abroad ?  
 A. I can't discharge my Memory.  
 Q. Was she the whole Month of *September* ?  
 A. I can't discharge my Memory when she was at home or abroad.  
 Q. Was she the Month of *October* ?  
 A. I can't tell.  
 Q. Was she in *November* ?  
 A. I can't tell.  
 Q. Or *December* ?  
 A. I can't tell.  
 Q. Was she the Month of *January* ?  
 A. I thought I did not come here to Scold.  
 Q. Was she absent for three Months together ?  
 A. I can't tell but she did go away for three Months.  
 Q. You say that my Lady used to go in a Coach to visit this Child ?  
 A. She did.  
 Q. Did not you say that the Child was brought every Day to the House by the Nurse ?  
 A. Sometimes the Nurse came up with him, and sometimes my Lady went to the Nurse's, to see him.  
 Q. Did not this continue every Day during the whole time that the Child was at Nurse ?  
 A. Sometimes, I don't say every Day ; but sometimes my Lady would go there, and sometimes the Nurse would bring him to the House.  
 Q. To what place did you go after you left that Service ?  
 A. I went to *Cheek-Point*.  
 Q. Do you know Mr. *William Bolton* ?  
 A. I do.  
 Q. Is he an honest Man ?  
 A. I believe he is.  
 Q. Do you know *Maynard Walker* ?  
 A. Yes.

N

Q. Is



terially; and, my Lord, if we falsify the Traveller in any one Point we will falsify her in the whole; we have twelve Men of Honour to try her, and I desire we may be permitted to call *Robert Kennight*, he is a very material Person in my Brief.

Court.] What is it that you produce him to?

Mr. Mac Manus.] He is a material Witness upon my Paper; he will prove to your Lordship that Lady *Altham* (which is the first Point before you upon this Perjury) was big with Child. My Lord, they won't let me open his Evidence any further, because he's here.

Court.] Bring him up.

## 24. ROBERT KENNIGHT.

Mr. Mac Manus.] Did you know the late Lord and Lady *Altham*?

Robert Kennight.] Yes, I did.

Q. Where did you live when you knew them?

A. In *Garryduffe* first.

Q. Did you know them while they liv'd at *Dunmaine*?

A. I did, Sir.

Q. How far from that did you live?

A. In the Bounds of *Dunmaine*, they join together.

Q. Was my Lady, or was she not with Child at any time that you knew her at *Dunmaine*?

A. In my Opinion she was.

Q. Have you any Reason for that Opinion?

A. All the Reason I have for it is, because I seen her big and like a Woman with Child.

Q. Did you see any Child in the House of *Dunmaine*?

A. I did.

Q. Did you know of any Bonfires and Rejoicings upon any and what particular Occasion?

A. I did, for Joy about the young Child that my Lord and Lady had.

Q. Pray do you know Mrs. *Heath*?

A. I never knew her, I made no Acquaintance with her.

Q. Do you remember to have seen her at *Dunmaine*?

A. I never did see her or know her at all.

I shall ask him no more Questions.

Court.] How many Bonfires were there made?

A. None but one.

Q. Where was it?

A. At the great House, in the Back-side in the Avenue.

Mr. Solicitor.] My Lord, we have examined such a prodigious number of Witnesses to one Point, that, if my Judgment had prevail'd, you should have had an end of them long ago; but we shall now call our last Witness for the present, and trouble your Lordship no more, except in the Counter Proof upon the Reply we should have Occasion to produce fresh Proof. This Witness is a Witness that was examin'd upon the last Trial in Ejectment in the *Exchequer*, her Name is *Joan Laffan*.

Court.] Why did not you call her first?

Mr. Solicitor.] We look upon her to be a very material one, and hope she'll satisfy your Lordship and the Jury of this whole Affair.

Court.] I was wondering what was become of her all this Time.

## 25. JOAN LAFFAN.

Mr. Serj. Tisdall.] Mrs. *Laffan*, did you know my Lord and Lady *Altham*?

Joan Laffan.] Yes, Sir.

Q. Was you ever a Servant there?

A. Yes, Sir.

Q. What was your Service?

A. I was *Chamber-Maid* when I came there first.

Q. What Time did you come there first?

A. The year after the Death of the Queen; I was at Colonel *Deane's* at her Death, and came the year after to Lord *Altham's*.

Q. Pray, how long did you continue in that Employment of *Chamber-Maid*?

A. About a Year and half, and then I was employed to nurse Master *Jemmy Annesley*.

Q. How old was he then?

A. Near upon a Year and half, or thereabouts.

Q. Pray now, whose Child was he?

A. My Lord and Lady *Altham's*.

Q. By whom were you employ'd to nurse him?

A. By my Lord and Lady *Altham*.

Q. Pray, what time did you go into my Lord's Service?

A. To the best of my Knowledge, it is the *Harvest*; I liv'd at Colonel *Deane's* 'till after King *George* the First came in better than half a year, then I left it and was a little while with my Friends, and then went to Lord and Lady *Altham's*.

Q. Pray, can you tell in what Month you went there?

A. I cannot recollect the Month, but, to the best of my Knowledge, about *Harvest*.

Q. In what Year was it?

A. I can't exactly tell what Year.

Q. But you say it was the year after the King came in?

A. The year after or thereabouts.

Q. How long after you liv'd as a *Chamber-Maid* was this Child put into your Care by my Lady?

A. Near upon a year and half after, or thereabouts.

Q. Who was it put the Child into your Care?

A. Lady *Altham*.

Q. Pray, did Mrs. *Heath* know that you took Care of it?

A. She did, Sir.

Q. Where was the Child before he was put into your Care?

A. The Child was at Nurse before; when he came from the Wet Nurse, he was put into my Care.

Q. Pray now, how old was the Child when you were hired?

A. I believe the Child was three or four Months old when I was hired, there or thereabouts.

Q. How



CROSS EXAMINATION.

Q. How old do you say he was ?  
 A. About *three Months*, or better, I can't exactly tell that.  
 Q. How old was the Child when put into your Care ?  
 A. *Near upon a year and half*.  
 Q. How long after you were hired was he put into your Care ? About what time of the Year ?  
 A. *About a year and half after*.  
 Q. Was you a Year and half *Chamber-Maid* before you had the Care of him ?  
 A. Yes, I believe I was near upon it.  
 Q. How long did you attend this Child before my Lady went away ?  
 A. *Half a Year*.  
 Q. How long did you attend the Child before my Lord and Lady parted ?  
 A. *About two years old the Child was when they parted*, so that I attended him *half a year* before my Lady went away.  
 Q. Before this Child was put into your Care where was it ?  
 A. At the Wet Nurse.  
 Q. You say, that before this Child was put into your Care it was put unto the Wet Nurse ?  
 A. Yes.  
 Q. Was it ever brought up by her to *Dunmaine* House ?  
 A. Yes it was, sometimes my Lady would go on fine Days and fetch it in the Coach with her, and the Nurse would bring it other Times.  
 Q. Was Mrs. *Heath* in the Service then ?  
 A. She was indeed.  
 Q. Pray how did my Lady behave to it ?  
 A. My Lady was very fond of it.  
 Q. Who used to dress the Child ?  
 A. Mrs. *Heath* dress'd it, it's Day Cloaths were kept in the House and the Child was dress'd by her and my Lady, and the Night Cloaths were kept with the Nurse.  
 Q. How did Mrs. *Heath* treat this Child ? Was she employ'd in any Sort about it ?  
 A. Sometimes to dress him and take him in her Arms that way, very fond, I know that when there were Jellies made or Jellies left, it was given to the Nurse and put into her Whey and Broths to drink.  
 Q. Was you at *Dunmaine* at the Time of the Separation ?  
 A. I was there.  
 Q. Where was this Child then ?  
 A. In the House.  
 Q. How did my Lady behave to the Child at parting ?  
 A. She desir'd very hard to take the Child with her, and my Lord would not let her have him.  
 Q. Pray, was there any thing happen'd particular to the Child at the time of the Parting ?  
 A. My Lady desired very hard to have the Child ; she sent down for Mr. *Taylor* to come up and hand her down Stairs ; so, when he came up, I hope, says she, you had not a Hand in this wicked Plot contriv'd for me. He said, No, he had not. Says She, if you are so good as to prevail on my Lord to let me have the Child, I don't care if I never set my Foot in *Dunmaine* again.  
 Q. What happen'd upon that ?  
 A. I know that she said so, for I stood at the Stair-head when Mr. *Taylor* handed her down Stairs.

Mr. Spring.] Where was you hired into the Service of Lord and Lady *Altham* ?  
 A. My Lady hired me.  
 Q. Where ?  
 A. In her own House.  
 Q. Are you sure my Lady hired you ?  
 A. She did indeed ; she did not know me and she sent to a Gentlewoman to get a Character of me, and she said she would give her word for 1000 l. for me.  
 Q. Who was that Gentlewoman ?  
 A. It was Mrs. *Synnot*, she sent her Footman to her.  
 Q. You say my Lady was at *Dunmaine* at that Time ?  
 A. She was.  
 Q. Upon your Oath, did she continue the whole Month of *August* at home ?  
 A. I can't tell whether she did or not.  
 Q. Was she or was she not at home the Month of *August* ?  
 A. I can't tell whether she was at home or not.  
 Q. Did she lye a Week abroad at any time in *August* ?  
 A. I can't Recollect.  
 Q. Was she a Fortnight abroad in *August* ?  
 A. I can't tell.  
 Q. Was she the whole Month of *August* abroad ?  
 A. I can't discharge my Memory.  
 Q. Was she the whole Month of *September* ?  
 A. I can't discharge my Memory when she was at home or abroad.  
 Q. Was she the Month of *October* ?  
 A. I can't tell.  
 Q. Was she in *November* ?  
 A. I can't tell.  
 Q. Or *December* ?  
 A. I can't tell.  
 Q. Was she the Month of *January* ?  
 A. I thought I did not come here to Scold.  
 Q. Was she absent for three Months together ?  
 A. I can't tell but she did go away for three Months.  
 Q. You say that my Lady used to go in a Coach to visit this Child ?  
 Q. She did.  
 Q. Did not you say that the Child was brought every Day to the House by the Nurse ?  
 A. Sometimes the Nurse came up with him, and sometimes my Lady went to the Nurse's, to see him.  
 Q. Did not this continue every Day during the whole time that the Child was at Nurse ?  
 A. Sometimes, I don't say every Day ; but sometimes my Lady would go there, and sometimes the Nurse would bring him to the House.  
 Q. To what place did you go after you left that Service ?  
 A. I went to *Cheek-Point*.  
 Q. Do you know Mr. *William Bolton* ?  
 A. I do.  
 Q. Is he an honest Man ?  
 A. I believe he is.  
 Q. Do you know *Maynard Walker* ?  
 A. Yes.

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Q Is



Q. Is he an Honest Man?

A. He's a very indifferent Character, and all the Family, I know they help'd to ruin me.

Q. Do you know *William Elms*?

A. I do.

Q. What Character has he?

A. I see nothing by the Man.

Q. What Character did you give him when you were examin'd in the *Exchequer*?

A. What Character did he give me?

Q. Did not you swear then that he was an honest Man?

A. I don't say to the contrary now, do I?

Q. Did not you then say that you could make him blacker than he could you?

A. I don't know but I did.

Q. You say, you saw the Child in the Coach with my Lady when she was going away?

A. I did, and she kiss'd the Child in the Carriage, and the Child was taken away from her.

Q. What time of the Day was that?

A. It was after Dinner time, between that and Evening; towards the Evening.

Q. Repeat that again?

A. It was towards the Evening.

Q. Who used to visit at *Dunmaine* when you liv'd there?

A. I can't tell the Company exactly.

Q. Did Mrs. *Giffard* visit my Lady?

A. She did sometimes.

Q. Did my Lady visit her?

A. My Lady visited her sometimes, I can't tell exactly how often.

Q. Did you know Mr. *Palliser* at that House?

A. I did.

Q. How long did he use to stay there at a time?

A. I can't tell how long.

Q. Did he see the Child?

A. He did see it.

Q. Did he know whose Child it was?

A. He knew the Child was my Lord and Lady's.

Q. Had he ever the Child in his Arms?

A. I can't swear he had the Child in his Arms.

Court.] Do you know *Edmond Howlett*?

A. I do.

Q. Did my Lady go away in a Coach or Chariot?

A. To the best of my Knowledge, it was a four-wheel'd Chair.

Q. Was any body with her?

A. Yes, Mrs. *Heath*.

Q. Was there any body else with her?

A. No body else that I know of.

Q. Was the Child in the Chair?

A. I seen the Child was taken to her, and she kiss'd the Child when it was taken from her.

Q. Did she desire to have the Child brought to her?

A. She desired the Child to be handed to her and then she kiss'd it.

Q. How many Horses were there to the Chair?

A. To the best of my Knowledge, there were two.

Q. Was the Chaise open before or at the Top?

A. Upon my Word, I can't give my Word for that.

Q. Was it an open Chair, or a Chariot?

A. I can't give my Word for it, what Carriage it was.

Q. Was it before or after Dinner my Lady went away?

A. It was after Dinner, Sir.

Mr. Spring.] Was you ever in the House the Child was nurs'd in?

A. I was.

Q. Was the Wall a mud or stone Wall?

A. Stone and Mud, Mortar Wall, Stone and Mortar mix'd, Stone in the lower Part.

Q. Do you know *Sarah Weedon*?

A. I did.

Q. What did you tell Mr. *Bolton* concerning my Lady's having or not having a Child?

A. I never told him any thing, for he never talk'd to me of the Subject at all.

Mr. Solicitor.] My Lord, I told you she should be the last Witness upon the direct Examination, we reserve a Power to reply to any new Points, if necessary.

Court.] You shall, to any new Facts.

Here the Evidence of the Prosecutor was closed.

Court.] How many Witnesses have you, Gentlemen of Council for the Traverser? Have you any Objection on either Side to the Jury having some Refreshment?

Council.] We have no Objection.

Jury.] My Lord, we chuse to go on, and won't have any Refreshment at all; but desire Mr. Recorder will consider how long we have been in the Box, and that he will shorten the Trial as much as is consistent with the Benefit of his Client.

Mr. Recorder.] My Lord, it is with the utmost concern that I am to lay any thing before the Jury at so late an Hour, but as this is a Matter of great Consequence, I'm sure they'll hear me with Patience, and I shall make it as short as possible in Ease of the Jury.

My Lord, there are two Points that now are in Question, for tho' there are four or five Assignments of Perjury, yet they all end in two; one is that Lady *Altham* was with Child while the Traverser, Mrs. *Heath*, liv'd with her; and the other that she was brought to Bed of a Son.

My Lord, it appears from the Evidence of the Prosecutor, that my Lady *Altham* came first into this Kingdom in the Month of *October* 1713, and the Fact is so, and that she never was in this Kingdom before. This will be material when I come to speak to the Evidence, and remark upon the Particulars of it. It appears from the Evidence, that my Lady came to the House of Mr. *Briscoe* in this Town; there she stay'd till some time in *December*, that my Lord *Altham* came to Town and was reconciled to her, and though they have endeavoured to prove that they left *Briscoe's* and went into Lodgings before they went down to *Dunmaine*, we shall prove that my Lord *Altham* remained at Captain *Briscoe's* with my Lady, and never went to Mrs. *Vice's*, the Place they pretend he remov'd to, till he went to *Dunmaine* in the County of *Wexford*. We shall prove that they remained there, and went from the House of *Briscoe* to *Dunmaine*. My Lord, we shall prove, tho' they swear that they stay'd but three or four Days at *Briscoe's* after my Lord came, for so *Alice Betts* and the other Witnesses have sworn, that they stayed at *Briscoe's* during their continuance in *Dublin*; and that my Lady, when she lodg'd at Mr. *Briscoe's*, hired Mrs. *Setwright*, the House-keeper, tho' those Persons could not remember her Name. We shall prove that *Mary Waters* was hired for the Chamber-maid, and *Betty Doyle* for Laundry-maid, and that my Lady sent



sent these Servants down from *Briscoe's* to *Dunmaine* before her, two Days before my Lord and Lady set out; and these People will prove that two Days before they set out, my Lord and Lady lodg'd at *Briscoe's*, and that these Servants set out from thence to *Dunmaine*; we shall prove when they came to *Dunmaine* what Servants were there, for it will be material to the Jury to know who they were, because we shall not give Evidence of roving stragling People; we shall prove by a concurrent Testimony of all the Servants of the Family, that my Lady never was with Child at *Dunmaine*, or any where else in *Ireland*. We shall prove that in the Months of *September*, *October* and *November* 1714, when it is sworn she was in this Town sick, and visited by a Physician, that she was then in the County of *Wexford*. We shall prove that one Mrs. *Giffard*, a near Neighbour and Acquaintance of Lady *Altham's*, had Twins, and that my Lady was at the Groaning, and so far from being with Child, that she lamented her not having the Prospect of a Child; and we shall prove that my Lady, at the time that these Witnesses for the Prosecutor swear that she was at *Dunmaine*, and near lying-in, and lay the time in *April* or *May* 1715, we shall prove by a Cloud of Witnesses that she went to the Spring Assizes of *Wexford* that Year, was at the Assizes and at the Trial of one *Masterfon* and *Walsh* for enlisting Pretender's Men; we shall prove by several Witnesses of undoubted Credit and by the Person where she lodg'd, that she was there all the time of the Assizes, and was there the 18th Day of *April* and at the Trial of these People, when *Higginson* swore that she was at home and big with Child; and it will appear to your Lordship, that she was so far from being with Child, that she did not return to her own House, till the *twenty second* of *April*. We shall then prove, that after that, she came to *Dublin*, that she came here in *May* following, which, if what they swear be true, could not be, for they say she lay-in then, and that it was above *three Weeks* before she got out of her Chamber. We shall prove that she was in *Dublin* the King's Birth-day, when the Fire-works were made on that Occasion, which was on the *twenty eighth* of *May*. My Lord, one would imagine that when we shall have given you the concurrent Testimony of all the Servants of the Family, and other undoubted Witnesses touching these Facts, we should have little Occasion for further Proof; but we shall go to Facts that will overturn their Witnesses, and shew that all this is a made, contrived Affair. My Lord, they pretend that this Child was christened, and that Mrs. *Pigot*, and Counsellor *Cliff* and Mr. *Colclough* were Godfathers and Godmother; they swear that they were all present at this Christening. These are Circumstances we shall shew to be false, and if we can prove that Mrs. *Pigot* was not in the County of *Wexford* from *November* in the Year 1714 till after the Separation in the Year 1716, all this Contrivance must fall to the Ground. My Lord, we shall prove it incontestably; we shall prove that Mrs. *Pigot* came to *Dublin* from the County of *Wexford* in *November* 1714, that she was in *Dublin* in the Year 1715, that her Husband broke his Leg, and happen'd to lye ill in the County of *Tipperary*, and that she went to him and continued there, and never return'd to the County of *Wexford* from *November* 1714 till some time in the Year 1717, which was after the Separation; and

we shall prove what will fix this, that the great Eclipse was the *twenty second* of *April* 1715. Now, they lay that this Christening was in *May* or *June* that Year, for they say Lady *Altham* was brought to Bed in *May*, so that Mrs. *Pigot* must have been in the County of *Wexford*, if at all at the Christning, in *May* or *June*. Now, my Lord, we'll prove that at the Time of the Eclipse, Mrs. *Pigot* was with her Husband, and was actually in the County of *Tipperary* the *twenty second* of *April* 1715 and continued there many Months after. When we have proved this, we shall prove that Mr. *Cliff* was not in the County of *Wexford* in *May* or *June* 1715, the time of his being sworn to be Godfather to this Child; we shall prove he was in *Dublin* during the Term, and continued sick here after, till the middle of *June*. We shall prove that at the time of Mr. *Colclough's* being said to be Godfather, there was a particular Quarrel between him and my Lord *Altham*; besides, that Mr. *Colclough* was a *Papist* at that time and died one; and then you'll judge whether they would have chosen a *Papist* Godfather to a Child, born to inherit so great an Estate and such Honours. When we have proved this, we apprehend that this concurrent Testimony of all the Servants of the Family, of my Lady's having never been with Child, and the Proof of her being at *Wexford* at the Assizes and after in *Dublin*, and other Circumstances, will convince any reasonable Man that this is all a Fiction. I could open many other Circumstances, but rather chuse to spare the time, and let the Jury hear the Witnesses.

Mr. Smith.] My Lord, the first Witness we produce is Mrs. *Vice*, you have heard of one *Vice* in *Essex-street*, to whose House Lady *Altham* was supposed to go to Lodge the first time she was in *Dublin*, after my Lord and she were reconciled at Mr. *Briscoe's*; we have the Daughter of that Lady, and she'll give your Lordship a true account of that Transaction, and the true periods of time concerning their lodging there.

The Examination of the Traverser's Witnesses began at a quarter before nine o' Clock at Night.

I. MRS. LETITIA VICE.

Mr. Daly.] Mrs. *Vice*, I'd ask you a question, Madam. Pray, do you remember when the late Lady *Altham* came first into this Kingdom?

Mrs. *Vice*.] I do remember her. Not when she landed, but I remember her being in the Kingdom.

Q. The first time that you remember her being in the Kingdom where did she Lodge?

A. I heard she lodg'd at Captain *Briscoe's*.

Mr. Serjeant Tisdall.] I am to inform you, you are not to tell what you heard.

Mr. Daly.] Pray, Madam, where did you first see her?

A. I first saw her in my Mother's House in *Essex-street*.

Q. Pray, can you recollect the first time that she came to Lodge at your Mother's?

A. Indeed, Sir, I can't.

Q. Is it from the Country she came, or from England?

A. From the Country, I believe.

Q. Pray,



Q. Pray, Madam, what time was it ?  
 A. Indeed, Sir, I can't tell.  
 Q. Do you remember any thing of her living at *Briscoe's* ?  
 A. Yes, I heard she liv'd there.  
 Q. Do you remember the time, Madam, when she lodg'd there ?  
 A. I only heard she lodg'd there ; I never was to see her there.  
 Q. Do you know Mrs. *Cole* ?  
 A. No, Sir.  
 Q. Do you remember whether my Lady came from the Country to your Mother's ?  
 A. I believe from the Country.  
 Q. What reason have you to believe so ?  
 A. I have reason to believe so.  
 Q. Why ? Did you observe what People came with her ?  
 A. I did not, Sir, I was then very young.  
 Q. Do you remember the Fire-works that were at the Birth-day of King *George* the first ? and were my Lord and Lady at your Mother's House then ?  
 A. I remember them being at my Mother's House one Birth-day of King *George* the first.  
 Q. How often were they at your Mother's ?  
 A. They were there twice ; and I believe once was before the Birth-day, they were there at the death of the Queen.  
 Q. Was that the first time of their being there ?  
 A. I can't tell whether that was the first time.  
 Q. Were they ever there lodging but twice ?  
 A. But twice, to the best of my Knowledge.  
 Q. Was your Father living then ?  
 A. My Father was dead.  
 Q. Will you please, Madam, to give a particular account of the times they were there ?  
 A. I can't give a particular account, but that they were there when the Queen died and one Birth-day of King *George* the first.  
 Q. What Day of the Week was that Birth-day ?  
 A. It was on a *Saturday* ?  
 Q. Why do you remember it to be on a *Saturday* ?  
 A. I remember the Restoration was on *Sunday*, and my Lady had a mind to have a Bonfire made before the Door, and my Mother was not willing there should be one, and there was some dispute on that, and that makes me remember the Day of the Week.  
 Q. Do you recollect, Madam, whether there were any Fire-works that Birth-day ?  
 A. I believe there was, Sir.  
 Q. Did you see any body at those Fire-works, looking at them ?  
 A. We were pretty near the Custom-house, and I believe I might see some of them there, but was not with my Lady to see them.  
 Q. But you say the first time my Lord and Lady lodg'd at your Mother's, they came from the Country ?  
 A. To the best of my Knowledge, they did.  
 Q. Pray, Madam, when first my Lady came from *England*, did they come to visit at your House or not ?  
 A. My Lady dined with my Lord there ; but I don't believe she came to lodge till after she came from the Country.

Mr. Morton.] There was a Direction of your Lordship's, that the Witnesses should be kept together till call'd for, but I am to inform your Lordship here are two of the Witnesses walking about the Court.

Mr. Annesley.] I beg, my Lord, I may explain this matter to your Lordship, I've been with them for these three Hours, and Mr. *Hervey* did not leave the Place till it was said he was sent for by the Court.

Mr. Daly.] My Lord, the Witness says, she remembers that when it was said that my Lady came from *England*, that my Lord and she came to dine with her Mother.

Q. Where did they lodge at that time ?

A. I heard they lodg'd at Captain *Briscoe's*.

Q. Did they lodge at your House then ?

A. Not when they came to dine there.

Q. Did my Lady ever lodge there before ?

A. No.

Q. You remember those Fire-works that were at the time they lodg'd at your Mother's House, how long did they continue in Town after ?

A. I can't tell.

Q. Well, Madam, the last time, which is the second time that they came to your Mother's, how long did they continue there ?

A. I can't be exact to the time, they were there a good while, but I can't tell how long, Sir.

Q. What time of the Year was it ?

A. I can't recollect the time of the Year.

Q. What time of the Year were they there the second time ?

A. They were there the *eight* and *nine* and *twenty* of *May*, but how long before that I can't tell.

Q. What reason have you to be exact as to those Days ?

A. Why, the first being the Birth-day, Sir, and the Fire-works being at that time, and my Lady's desire of having a Bonfire on *Sunday* Night, which was the Restoration.

Q. How long did they continue in Town after ?

A. I can't be exact how long they continued in Town.

Q. Do you remember any thing of *Twelfth Night* ?

A. I do remember my Lady was there one *Twelfth Night*, but what Year I cannot tell, and I remember there was a *twelfth Cake*.

## CROSS EXAMINATION.

Mr. Serj. Marshall.] You say, you are sure that Lady *Altham* was at your House at the death of the late Queen *Anne* ?

A. I am, Sir.

Q. Pray, do you remember the 20th of *October* following that ?

A. No, Sir, I don't.

Q. Do you remember any thing remarkable that happen'd that Day ?

A. I don't.

Mr. Serjeant Marshall.] I tell you then, that was the Coronation of King *George* the first.

Q. I ask you now were there not the Fire-works on that Day in *Dublin* ?

A. I don't know indeed.

Q. De



Q. Do you remember any thing particular of the *twentieth* of *October*?

A. I do not, Sir.

Q. Can you take upon you to say that Lord and Lady *Altham* were not in *Dublin* in *October* 1714?

A. I can't take upon me to say whether they were or not.

Q. Can you, that they were not in *November* 1714?

A. I can't, Sir.

Q. You mention'd a *twelfth* Day, now I ask you, can you say they were not here on the *twelfth* Day in 1714?

A. I can't say that, but my Lady was one *twelfth* Day at my Mother's.

Q. Can you say it was not that Year?

A. I can't say whether it was or not.

Q. Pray, can you say, since the only Reason you give was, that there were Fire-works, that it was not the Fire-works on the *twentieth* of *October* 1714?

A. I say it was not that Day that I remark; it was the *twenty-eighth* of *May*, *Saturday*, and the *Sunday* was the *Restoration*.

Q. Can you say that that was not the *twenty-eighth* of *May* 1716?

A. Indeed I can't take it upon me to fix the Year, but believe that it was the Year 1715, and my Reason for it was, that it was *Saturday*.

Q. I ask you, Madam, can you say that it was not *May* 1716?

A. I do not believe it was *May* 1716; I say it was on a *Saturday*, whatever was the Year it was in; whether it was the Year 1715 or 1716 it was on a *Saturday*, and that was the Year.

Court.] *Saturday* was the Day in 1715 by the Almanack.

Mr. Serj. Marshall.] Do you know one *Catherine Mac Cormack*?

A. I do, she was my Mother's Servant.

Q. Was she a Servant in the Family at the time Lady *Altham* lodg'd there?

A. She was.

Q. Do you remember that there was any Disturbance or Quarrel between Lord and Lady *Altham*, while at your House?

A. I don't remember any Particulars of that sort at all; I was too young to make Observations of that kind.

Mr. Harward.] You must have been very young indeed at that time, Madam?

A. Not so young perhaps as you may imagine, Sir.

Mr. Serjeant Marshall.] Pray, give me leave to ask you how old you were then?

A. I am now three and forty, Sir.

Q. Did you never hear of my Lord's sending for Mrs. *Lucas* the Midwife?

A. I never did.

Q. Was she a noted Midwife at that time?

A. I believe so, Sir.

Q. She liv'd near you, Madam?

A. She did so.

Q. Was my Lady at any time confined at your House?

A. I don't know.

Q. Did Doctor *Jemmat* ever visit her?

A. I don't know but he might.

Q. And you don't know but my Lady was here in *October*, *November*, *December* and *January* 1714?

A. I don't know.

Q. What Cloaths did my Lord and Lady wear when they came to your House first?

A. Indeed, Sir, I can't tell. You could not tell I suppose what Cloaths I have on now at such a distance of time.

Q. What Cloaths did they wear generally?

A. I don't know; I know my Lady was in Town in the Queen's Mourning; I've seen her too in Colours, in a yellow and Silver Silk, a blue and a white Damask.

Q. What was your reason for fixing the Birth-Day to *Saturday*?

A. My reason was, because my Lady would have a Bonfire on *Sunday*, and my Mother was not willing there should be one, and there was a Dispute about it.

Q. What was the Objection your Mother had to the making it?

A. It was, that as she was a Widow, she thought such a thing as a Bonfire was not agreeable to her, and that was the reason.

Q. What Day did the King's Birth-Day happen on in the Year 1720?

A. I don't know; but my Lady could not be at our House in the Year 1720, because my Mother had left the House.

Court.] The Witness said that the Birth-Day that Lady *Altham* was at her Mother's House was on a *Saturday*, and whatever Year that happen'd on, that was the Year. And that was the Year 1715, by the Almanack.

Mr. Serjeant Marshall.] You mention'd a *twelfth* Cake, I think?

A. Yes, Sir.

Q. Was that the first or second time Lord and Lady *Altham* were at your Mother's?

A. I can't be particular whether first or second.

Q. Pray, Madam, how long is it since you first recollected that this Birth-Day was on a *Saturday*?

A. Since I was ask'd whether my Lady was in Town on a Birth Day.

Q. How long is it since you look'd into an Almanack about this?

A. I never look'd into an Almanack 'till after I had told that it was on a *Saturday* and the *Restoration* on *Sunday*; but never 'till then.

Q. Were not you in Town when the last Trial was in the *Exchequer*?

A. I was, Sir.

Q. Were not you then applied to?

A. I was applied to.

Q. And did you come?

A. I did not come.

Q. How so?

A. Because I could not recollect any particular Passages at that time.

Mr. Serjeant Marshall.] Why then it was not till after the Trial that you were set right.

Mr. Daly.] Who applied to you to appear at the *Exchequer*?

A. There came a Gentleman from Captain *Annesley* to know if I knew any thing of this Affair, I sent word I did not, and if there had not been a particular



particular Question ask'd me about the Fire-works, I should not have recollected.

Mr. Serjeant Marshall.] Who ask'd that particular Question about the Fire-works?

A. I can't tell who it was.

Q. From whom were you ask'd that Question?

A. It was from Mr. *Annesley's* Family. Mr. *Mac Kercher* and *Annesley* before that came to me to know what I knew of my Lady's lodging at my Mother's, and I told them I knew nothing particular about it.

Q. Who ask'd you the particular Question about the Fire-works?

A. It was Captain *Annesley's* and Lord *Anglesey's* Friends.

Q. Was this at the Time of the Trial?

A. I don't know when the Trial was.

Q. I tell you then, it began the 11th of November 1743 and lasted for twelve Days, did they ask that Question during that Time?

A. They only applied to me in general, to know if I knew any thing of the Time of my Lady *Altham's* lodging at my Mother's, and I told them I could not recollect.

Q. Did they at that time put this particular question about the Fire-works?

A. They did not.

Q. Did they any Time before the Trial was over?

A. No, they did not. Mr. *Mac Kercher* came to me when he came over first, to inquire about my Lady's Lodging at my Mother's, I told him I recollected nothing particular about it, and had nothing to say that could serve him.

Q. When was it that that Question was put to you?

A. I can't remember the Day.

Q. Recollect when that Question was put to you, was it before the Trial at *Wexford*?

A. It was.

Q. Who was the Person that put the Question to you?

A. I forget by whom, I was sent to by Lord *Anglesey's* Friends; I don't know whether Mr. *Colles* did or not, but he was with me.

## 2. MARY SETWRIGHT.

Mr. Richard Malone.] Were you at any Time and when acquainted with Lord and Lady *Altham*?

Mary Setwright.] I was, Sir.

Q. When were you first acquainted with them?

A. When I was hired to them.

Q. When were you first acquainted?

A. Four Days before I was hired.

Q. When were you hired?

A. About *five* or *six* Days before *Christmas-Day*.

Q. In what Year?

A. The Year I can't tell well.

Q. Where did Lady *Altham* lodge then?

A. At Captain *Briscoe's* in *Bride-Street*.

Q. Do you know how long she had been in *Ireland* before you was hired?

A. Not long.

Q. You have said that you were hired at Capt. *Briscoe's*?

A. Yes, Sir.

Mr. Le Hunte.] How soon did you go from *Dublin* after you were hired?

A. In *four* Days.

Mr. Malone.] Pray, after you were hired, did you leave Town and when?

A. *Four* Days after.

Q. Where did you go to?

A. To *Dunmaine*, to my Lord's Country House.

Q. What time did you get there?

A. The *Day* before *Christmas-Eve*.

Q. Were there any other Persons that went with you?

A. Two Servants, the *Chamber-Maid* and *Laundry-Maid*.

Q. Who was the *Chamber-Maid*?

A. The *Chamber-Maid* was *Mary Waters*.

Q. And who was the other Woman?

A. *Elizabeth Doyle*.

Q. You say that you got to *Dunmaine* before *Christmas*?

A. A *Day* before *Christmas-Eve*.

Q. Pray, Madam, did my Lord and Lady go there at any time after and when?

A. They came there the very next Night, Sir.

Q. Now, I would ask you, where did they lodge when you left Town?

A. At Captain *Briscoe's*.

Q. In what Station were you hired?

A. *House-Keeper*.

Q. How long did you live with my Lady?

A. A *Year* and a *Quarter*, or thereabouts.

Q. What time did you leave her?

A. In *February*.

Q. What Year.

A. Indeed I don't know the year, but the *Eclipse* was the year following.

Q. Do you remember, during the Time you liv'd there, to have seen Mrs. *Briscoe* or her Daughter there?

A. I did, Sir.

Q. Can you recollect how soon after my Lord and Lady went to *Dunmaine*, it was that they were there?

A. It was very soon, but I can't tell how long.

Q. Now, I ask you whether my Lady Miscarried or kept her Room for any and what Time?

A. *Never*, to my Knowledge.

Q. Did you ever hear it?

A. *No indeed*.

Q. Could she have Miscarried at *Dunmaine* during the Time Mrs. *Briscoe* and her Daughter were there, or kept her Room without your knowing of it?

Mr. Serjeant Marshall.] I must stop Mr. *Malone* a little, because it is a direct leading Question.

Court.] Was my Lady Sick or confined for any Time while they were in the House?

A. No, not to my Knowledge, my Lord.

Mr. Malone.] You say that you were *House-Keeper*?

A. Yes.

Q. What Things were under your Care, as *House-Keeper*?

A. I kept the Sugars, the Spices, and Bread and all those Things, every Thing but only *Liquor*.

Q. Was



Q. Was you at any time while Mrs. *Briscoe* and her Daughter, were there, call'd to for any Thing under your Care for any Person that was Sick?

A. No, not that I know of.

Court.] Did you see my Lady every Day at that Time?

A. Every Day in the Week, my Lord, to know her Commands.

Q. Was it possible that she could Miscarry and you not know it?

Mr. Serj. Marshall.] That, my Lord, must depend upon the Credit of Witnesses, for a Gentlewoman of good Credit has sworn she did.

Jury.] Do you believe that my Lady was with Child at that Time?

A. I believe not.

Mr. Malone.] Did Mrs. *Briscoe* and her Daughter remain at *Dunmaine* for any and what time after my Lord and Lady got there?

A. Yes.

Q. How long?

A. I can't exactly tell how long they staid there.

Q. How long might it be?

A. I can't say particularly.

Q. Pray, do you recollect what time they left *Dunmaine*, what Time of the Year?

A. It was in *Summer*.

Q. Was it the *Summer* after my Lord and Lady went to *Dunmaine*?

A. Yes, it was.

Q. I ask you now, whether my Lord and Lady came from *Dunmaine* to *Dublin* at that time, or any time, and when?

A. They went to *Dublin* in my Time.

Q. Was it in the same year?

A. Yes, Sir.

Q. How soon after Mrs. *Briscoe* came to *Dublin*?

A. Indeed I can't tell.

Q. Was it in the *Summer* Season of the Year?

A. Yes, it was.

Q. What Time was it that my Lord and Lady return'd to *Dunmaine* next?

A. I can't exactly tell you what Month it was, but it was in the *Summer* time.

Q. Do you know who was *Butler* in your time?

A. *Thomas Rolph*.

Q. Had you any and what Directions in order to prepare any and what Thing for *Christmas* that Year? What was it?

A. Minc'd *Pyes* and those Things, that were proper for *Christmas* Time.

Q. Did you make any thing particular?

A. I made a *Col'ar of Brawn*.

Q. By whose Directions did you make that?

A. By my Lord's and Lady's directions.

Q. When was it that they returned to *Dunmaine*?

A. It was in the *Summer*, it was a great while before *Christmas*.

Q. Did you at any Time and when see them in this Town?

A. I did after I left them.

Q. When did you leave them?

A. I left them in *February*.

Q. Upon what Occasion did you see them in this Town, and where, and I would know whether you were call'd to them for any and what Purpose?

A. They sent the running Footman for me, for to prepare an Entertainment they made for Company.

Q. Where did they lodge then?

A. They lodg'd at Mrs. *Vice's* in *Dirty Lane*.

Q. What was it they sent to you for?

A. They sent to me to serve the Entertainment, to manage it and see it properly done.

Q. Do you remember at what time it was?

A. It was *Christmas*, the *Twelfth Day*.

Court.] You liv'd a year and quarter and then left them and saw them in *Dublin* after, how soon after was it?

A. It was about *two years* after I left them that I saw them in *Dublin*, it was upon a *Twelfth Day*.

Mr. Malone.] As you were there that Night, do you recollect any of the Persons in Company?

A. Mr. *Colclough* was one of the Company.

Q. What *Colclough*?

A. Mr. *Cæsar Colclough*.

Q. I think you said that *Rolph* was *Butler* at the time you were in the Country?

A. He was.

Q. When my Lord and Lady returned to *Dunmaine*, was there any and what thing brought for the *Butler*?

A. There was *Mourning* brought down.

CROSS EXAMINATION.

Mr. Walsh.] Pray, now recollect what was the particular Time you came to live with Lord and Lady *Altham*?

A. In *Decem'ber*.

Q. What Year?

A. I can't tell you the Year.

Q. You must recollect the Year?

A. It was the Year before the great Eclipse, whatever Year that was.

Q. When did you leave her Service?

A. In *February*.

Q. When?

A. In *February* before the great Eclipse.

Court.] When was it that you came to Lady *Altham*?

A. In *December*, the Year before the Eclipse.

Q. How long did you live with her?

A. *A Year and two Months*, to the *February* next but one following.

Q. Was the great Eclipse after you left her?

A. The Eclipse was the *April* after I left her.

Jury.] Had you the keeping of any China?

A. I had not.

Q. Do you remember any body that had?

A. My Lady's Woman kept what *Cups* there were.

Q. Do



Q. Do you remember any particular *Saw-cers*?

A. I don't indeed.

Mr. Walshe.] Recollect now and tell when you came to live with Lord and Lady *Altham*?

A. I came *two* or *three* Days before *Christ-mas*.

Q. In what Year?

A. I can't tell you more than it was the year before the Eclipse.

Q. How long was the Eclipse after the Time that you came to live with them?

A. It was the *April* after I left them.

Q. And when did you leave them?

A. In *February*.

Q. How long did you go to the Country before them, after you were hired?

A. I went *four* Days before them.

Q. Did you ever see Mr *Briscoe* and his Wife and Daughter at *Dunmaine*?

A. Yes, I did.

Q. Did they all go there together?

A. She and her Daughter came first.

Q. When did he come?

A. I can't exactly tell the time he came.

Q. Was it in *Summer* or *Winter*?

A. I think in *Summer*.

Q. What time in the *Summer*?

A. I can't remember.

Q. Was it in *Harvest*?

A. I can't remember the exact time.

Q. How long did he stay there?

A. Mrs. *Briscoe* stay'd a good while, but I don't know how long he stay'd.

Q. Are you sure it was in *Summer* when he came?

A. I can't tell exactly when it was.

Q. When was it that Mrs. *Briscoe* and her Daughter came?

A. Just after the time that my Lady came.

Q. When did my Lady go down?

A. In *December*.

Q. And when did they go.

A. As near as I can remember in a Fortnight, or some such thing.

Q. How long did they stay?

A. As good as two Months, I forget if longer.

Q. Do you know did my Lady *Miscarry* at *Dunmaine*?

A. She never miscarried, to my Knowledge.

Q. As you were *House-keeper*, what did you keep the Keys of?

A. I kept the Keys of the Sugar and Spices, and several other things.

Q. Was you yourself ever sick at *Dunmaine*?

A. I never was sick myself there.

Q. Did you ever miscarry there?

A. I never did.

Q. Was you ever brought to Bed there?

A. I had a Child there.

Q. When?

A. The *June* after I went down.

Q. Were Mrs. *Briscoe* and her Daughter there when you lay in?

A. They were.

Q. Might not my Lady have miscarried when you were laid up with your Child?

A. I never heard any thing of it.

Q. Pray, did you see her every Day?

A. Every Day, but when I lay in.

Q. You said you saw her every Day, and therefore she could not miscarry unknown to you?

A. I was but a Fortnight in all Lying-in.

Q. Is it usual for Women to go out in that time?

A. I did.

Q. Where was you brought to Bed?

A. At the *Dairy house*.

Q. How far distant was that from *Dunmaine* House?

A. About a Field from the House.

Q. Was my Lady confined to her Chamber at any time while you liv'd with her?

A. She was not that I know of.

Q. Might she not unknown to you?

A. I should have heard of it, if she had.

Q. Can you say, upon your Oath, she did not miscarry?

A. She did not to my Knowledge.

Q. Could she not unknown to you?

A. I can't say she did to my Knowledge.

Q. Could not she unknown to you when you were out of the House?

A. I believe not, my Lady came to see me when I was Lying-in.

Q. Who kept the Keys when you were Lying-in?

A. Mrs. *Heath*.

Q. Did you come to Town when my Lady came to Town, after she was at *Dunmaine*?

A. I did not come to Town till I left them.

Q. When did my Lady come to Town, after you went down?

A. I can't exactly tell how long after.

Q. When was it that she came to Town, recollect yourself?

A. I can't tell the particular time.

Q. Did she come the *February* following?

A. It was in the *Summer* following.

Q. What time in the *Summer*?

A. I protest, I forget what Month it was.

Q. Was it in *July*?

A. No, it was not.

Q. Was it in *August*?

A. To the best of my Knowledge, it was *August*.

Q. How long did she stay before she returned?

A. *Two Months*, or thereabouts.

Q. Did she go to *Dublin* after she return'd?

A. She return'd in *two Months*.

Q. Did you live with her when she return'd again?

A. I did.

Q. In what time did she return?

A. In about *Two Months* she return'd.

Q. How long did you live with her after?

A. Not long.

Q. How long?

A. I left her in the *February* following.

Q. Now recollect and tell the particular time that she return'd to *Dunmaine*?

A. I can't tell the Month; she stay'd about *Two Months* away.

Q. Was she in *Dunmaine* when you left her?

A. She was.

Q. When was that?

A. The *February* after she return'd.

Q. How came she to discharge you?

A. Something that my Lord said that I took ill made me leave it.

Q. What



Q. What reason have you to remember that my Lady return'd in *Two Months*?

A. It was *Summer* time when she went and when she came back.

Q. Now I ask you a plain question, was not Lady *Altham* in this Town in *November* and *December* 1714?

A. Indeed I don't know.

Q. But you must answer that question; was she in this Town the Months of *November* and *December*, before you left her?

A. She was in *Dublin* in the *Summer*.

Q. Was she, or was she not, here in *November* and *December*?

A. I can't recollect.

Q. Can you say that when she went to Town in *Summer* that she return'd in *Two Months* to *Dunmaine*?

A. I can't be positive she did.

Q. Can you be positive she was in *Dunmaine* in *November* and *December* before the *February* that you left her? Come, Woman, recollect?

A. I believe they were, I can't remember.

Court.] Was my Lady *Altham* at *Dunmaine* the *November* and *December* before you left her?

A. Yes she was, my Lord.

Mr. Walsh.] Do you know Mr. *Nesbit*, a Clergyman?

A. No.

Q. Don't you know Mr. *Nesbit* of St. *Catharine's* Parish?

A. I have seen him.

Q. Had you any Discourse with him lately about this Matter?

A. Not lately.

Q. Had you ever any?

A. I had some.

Q. What was that Discourse? Had you any in Relation to Mr. *Annesley's* being my Lady's Son or not?

A. He ask'd me if I knew of her having a Child, and I told him that I never did, nor never heard she had.

Q. Did not you tell Mr. *Nesbit* that if Mrs. *Heath* swore that my Lady never had a Child, she was a *damn'd Bitch*?

A. No, I never did.

Court.] Is that your Indictment that my Lady never had a Child? Your Indictment is that she never had a Child while Mrs. *Heath* liv'd with her.

Jury.] I think you said you made some Preparations for *Christmas* at *Dunmaine*?

A. I made *Brawn* in it.

Q. When did you make it?

A. The *Christmas* I went down.

Q. When was it my Lord and Lady came to *Dunmaine*?

A. They came the very Day before *Christmas-day*.

Q. And how then could you make the *Brawn* against *Christmas*?

A. I made it that Year, but not the Day after I went down.

Q. Was it the *Christmas* you went there that you made it?

A. It was that *Christmas*.

Q. Who gave you Orders for making it?

A. My Lord did.

Q. Where was he when he gave you those Directions?

A. He was at home at *Dunmaine*.

Q. Was my Lady there then?

A. She was.

Mr. Walsh.] Do you remember any *Sawcers* with smutty Figures on them?

A. I did not.

Q. Did you ever hear that any of them were broke by Lord *Altham*?

A. I never did; I never did hear of any such at all.

3. Revd. Mr. WILLIAM HERVEY.

Mr. Edm. Malone.] He is an antient Man, my Lord, and cannot stay any longer, which makes us produce him now, though out of time, and we are now going to shew that my Lady *Altham* was at the Assizes of *Wexford* in *April* 1715; we examine him out of time, because he is falling sick.

Mr. Serjeant Tisdall.] My Lord, I must complain to your Lordship of his being in Court this some time, and not having been kept with the other Witnesses.

Mr. Malone.] Call Mr. *Thomas Bourk* to shew when the *Wexford* Assizes were. I believe the Gentlemen will admit it for shortness Sake, that they were on the 16th of *April* 1715.

Court.] Do you admit that, Gentlemen?

Mr. Serjeant Tisdall.] I protest I don't know what to say to it.

Mr. THOMAS BOURK.

Mr. Malone.] What have you got in your Hand?

A. A Record; a Copy of an *Esfreat*.

Q. Where did you get it? From what Office?

A. From Mr. *Morryson's* Office.

Clerk of the Crown.] Reads the Record, as follows, viz.

Com Wexford	Extraet fin et Amerciament
Ss.	Impofuit et Recogn floriffact
	et Attinctur &c ad General
	Affiz et General Goal Deli-
	beracon tent apud Wexford
	in Com Wexford præd. Die
	Sabbati decimo sexto die A-
	prilis Anno Regni Domini
	nr. Georg Dei Gra Magn
	Britan Franc et Hiberniæ Rex
	Fidei Defenc &c primo Cor
	Honobl Johan Forfter Ar
	Capital Justic dict Domini
	Regis Cur. fu de Coi Banc fu
	regni fu Hiberniæ et Thom
	Coote Ar secund Justic dict
	Domini Regis Cur fu de Capital
	plit fu in Hibernie Justic et
	Comiff ejusdem Domini
	Regis ad General Affiz et
	general Goal Deliberacon nec
	non ad omn et singul Prodi-
	con, Murd Homicid Incend
	Illicit Affemblacon Felon
	Rober Extorcon Oppression
	Cna Contempt Offens Male-
	fact



fact et Caus quæcunq; in  
Com Wexford præd perpetrat  
sive perpetrand audiend et  
terminand assign Virtut Com-  
mission dict Domini Regis sub  
magn Sigill su Regni su  
hibniæ geren dat apud Dublin  
decimo sexto die Februar  
Anno Regni su primo.

Mr. Spring.] We produce a Clergyman of the County of *Wexford*, a Man of as good Character as any in it; to shew that my Lady *Altham* was at that Assizes.

Mr. Serjeant Tisdall.] I desire, Sir, you'll please to give an Account, whether you were not in Court the whole time that the other Witnesses were examined, or were not informed of what pass'd here?

Mr. Hervey.] I was call'd about an Hour and half ago, and told that the Court wanted me; when I found they did not, I went into the Court of *Chancery* and stayed there till I found the first Witness coming; afterwards I stood by the Clock, and I believe you'll think it is impossible to hear there any thing that pass'd here; and not one Word was I informed of what was said.

Mr. Malone.] Do you remember the time the Pretender's Men were tried at the Assizes of *Wexford*?

Mr. Hervey.] I remember when Mr. *Walsh* and *Masterfon* were tried for enlisting Men for foreign Service.

Q. Were you at that Assizes?

A. I was there and heard the Trial.

Q. Pray, Sir, can you fix the Year when they were tried?

A. They were tried in *Lent* Assizes 1715.

Q. Was it *Spring* Assizes?

A. It was *Lent* Assizes, but I believe it happen'd in *Easter* that Year.

Q. Were you in Court at the Trial of *Walsh* and *Masterfon*?

A. I was in Court.

Q. Who were the Judges?

A. My Lord Chief Justice *Forster*, my particular Patron and Friend, his Brother was my Tutor when I was in the College.

Q. Who was the other Judge?

A. I don't remember any other Judge, but I know he was there.

Q. Was you in Court at the Trial?

A. I was.

Q. Then I ask you, Sir, whether or no you saw my Lord *Altham* at that time in Town?

A. I did; I saw him at his Lodgings and at the Court-house, and had discourse with him in both Places, and never saw him before or since.

Q. In what Cloaths was he dress'd then?

A. To the best of my Remembrance, he was in *Black*.

Q. Were there any Ladies in Court at that Assizes?

A. There were several Ladies in Court.

Q. Were they of any Fashion or Rank in the Country there?

A. I saw a Lady of very good Appearance, though of homely Features, and I ask'd who she was, and I was told——

Mr. Serj. Marshall.] You are not to say any thing you were told, you must declare nothing but what you know your self.

Mr. Hervey.] They said it was Lady *Altham*.

Mr. Malone.] Did you know that Lady you saw to be Lady *Altham*?

A. I am morally assured it was her.

Q. Did you ever see her after?

A. I never saw her afterwards.

Q. You saw other Ladies there as well as this Lady.

A. I did.

Q. Did you know them?

A. I took notice of none but Mrs. *Giffard*, for she was my Relation by Marriage, and I had another Reason why I took notice of her, which was that I've often heard her blamed——

Q. Was Mrs. *Giffard* in Company with that strange Lady?

A. She was.

Q. Do you remember any Quarrel upon the account of beating a Man at the Assizes?

A. Yes, I remember it very well, and have reason to remember it.

Mr. Serj. Tisdall.] My Lord, I don't see to what this Examination can tend?

Mr. Malone.] It is in order to fix the time particularly.

Court.] Go on, Sir.

Mr. Hervey.] I took a King's Evidence to *Wexford*, one *Sinclare*, he had gone to *France* with several others, and when he came home, he was afraid I would represent him to the Justice of Peace and have him prosecuted; to avoid which, he said he would come in and make a Discovery if I would get him pardon'd. I said, I would, and after I had him, I mounted him before my Portmantua and took him to *Wexford*. While he was there some Servants of my Lord *Altham* fell upon him and beat him for being an Informer, and while they were beating him I caught them and they had almost murdered him. I took them to Colonel *Ram's* Lodgings, and we went to my Lord *Altham* to his Lodgings and shewed him the bloody Condition that this Fellow was in.

Q. How did you know where my Lord lodged?

A. I was inform'd that my Lord and Lady lodg'd at Mr. *Sweeny's*.

Q. Go on, Sir.

A. We went there to shew my Lord *Altham* the Treatment his Servants had given this Man, and my Lord said he was ashamed of their Behaviour, that they should be punished for it, and said they should come into Court.

Q. And did they come into Court?

A. There came but two into Court, the rest made their Escape.

Q. Were they punished for this Assault?

A. My Lord Chief Justice *Forster* was very angry, but fined them only 5*l*.

Mr. Recorder.] My Lord, thus he ascertains that Lord *Altham* lodg'd at Mr. *Sweeny's*.

Mr. Malone.] You say that you saw Mrs. *Giffard* in the Court-House and that she is your Relation?

A. Yes, her Brother and I took two Sisters in Marriage.

Q. Did she sit next to my Lady *Altham* that Day?

A. I don't know whether she was next to her, but she was very near her.

Q. Now



Q. Now I ask you, whether that Lady had any Signs of Pregnancy or not upon her?

A. I took particular Notice of her; she was, to the best of my Remembrance, dress'd in Black, was a full Chested Woman, and had a fine slender Waist.

Q. Did she appear to you as a Woman with Child?

A. She might be very young with Child for ought I know, but there was no visible Appearance of her being with Child.

Mr. Harward.] This Evidence is founded upon a Supposition that the Lady he saw at Wexford was the Lady Altham; he says he was only told it was she, and cannot say it was of his own Knowledge.

Mr. Hervey.] I'm pretty certain the Lady I saw was Lady Altham. I'm told, Sir, that you are Counsellor Harward, am not I to believe you are? I'm told that Gentleman is Counsellor Daly, I am morally assured of it and I believe it.

CROSS EXAMINATION.

Mr. Serj. Marshall.] Pray, Sir, did you see that Lady go into the Court-House, that you were so particular in your Observations about?

A. I can't say I did, but I saw her in Court.

Q. Do you know Mr. Caesar Colclough?

A. Yes, I do very well.

Q. Did not he sit by that Lady a great part of the Time?

A. I can't charge my Memory; as I told you before, I took no notice of any but Mrs. Giffard.

Q. I ask you, Sir, whether Mr. Colclough was there or not?

A. He might be there, and I can't say whether he was or not.

Q. Who were the persons tried?

A. Jack Walsh, and Mr. Masterfon.

Q. They were tried that Day?

A. They were, Sir.

Q. Are you sure they were tried at that Assizes?

A. They were tried at that Assizes.

Q. You are positive they were tried at that Assizes?

A. I heard them both tried, and I believe at that Assizes, Walsh was tried first.

Q. Are you positive that they were both tried?

A. Indeed, I have no Reason to doubt but they were; they were there, and appear'd there at the Bar both of them.

Q. Were they convicted or acquitted?

A. Acquitted, Mr. Walsh made a very good Defence.

Q. Whereabouts were you in the Court?

A. I was very near the Judge.

Q. Did you or did you not see Mr. Colclough there?

A. I can't say I saw Mr. Colclough.

Q. Did you see Colonel Loftus there?

A. I can't say I saw Colonel Loftus.

Q. Do you recollect any Gentleman of the Country that you saw there?

A. Why, do you believe that I was not there?

Q. 'Tis no matter what I believe, but can you name any one Gentleman that was there?

A. Lawrence Esmond of Ballynastraw was there.

Q. And you remember that Mrs. Giffard was there very positively?

A. I do, Sir.

Q. Now, I ask you, was not Mr Masterfon tried the Summer Assizes?

A. Indeed I don't know, I know he was in the Dock then.

Q. Did not you say you were sure he was tried that Assizes?

A. I don't know whether he was tried then or no, but he was in the Dock.

Q. Did you see this Lady any where else but in the Court House?

A. I saw her no where else but there, neither before nor since.

Q. Did she sit or stand during the Time you saw her?

A. I saw her both sitting and standing.

Q. Whereabouts?

A. Almost opposite the Sheriff's Box.

Q. Did you talk to Mrs. Giffard at that Time?

A. I did not speak to either of them.

Q. Did you speak to her at that Assizes?

A. I don't remember I did; but if you please I'll give the Reason why I took Notice of her more than another.

Q. Give your Reason?

A. She was a near Neighbour of Lord Altham; and was the most Conversant there of any others of the Neighbourhood, and my Lady not bearing the fairest character in the World, I heard Mrs. Giffard blamed for having such an Intimacy there; and therefore when I was told this Lady, that made a very good Figure by her Dress, was my Lady Altham, I took notice of Mrs. Giffard being in her Company; and whether Mrs. Giffard knew it or not I can't tell, but I have heard her censured for being in it. And if they had liv'd within three miles of me, as they did of her, I would not have had Converse with either of them.

Q. Was not there one Doyle, a Clergyman, tried at that Assizes?

A. I can't tell whether he was tried or not, I saw him in the Dock; he was one I knew in the College.

Q. How came you to be seated so near the Judge?

A. I was near the Judge for two Reasons; for sake of the Justices of the Peace and the Grand Jury.

Q. Do you know Mr. Henry Bolton?

A. Yes, I do.

Q. Was he at that Assizes?

A. He might, but I don't remember.

Mr. Mac Manus.] I hope at this late Hour they will produce Witnesses to the Point.

Mr. Solicitor.] I desire, my Lord, to make one Observation; which is, that Mr. Hervey's Testimony will account for every Thing that has been said concerning the bad Reputation of this Family.

Mr. Le Hunte.] My Lord, We shall now produce one Edmond Bourke, he was Postilion to my Lord Altham before my Lady came to Dunmaine. He will prove that he rode Postilion when the Chariot came to carry my Lord and Lady into the Country,



Country, and that they went from Captain *Briscoe's* and not from Mrs. *Vice's*; he will prove that Mrs. *Setwright*, *Elizabeth Doyle* and *Mary Waters* were Servants in the Family, and that he continued in the Service 'till the Year 1716; that he drove my Lady in a Chariot in 1715 to the Spring Assizes of *Wexford*, that Mrs. *Giffard* went in the Chariot with her, that Mrs. *Heath* rode, and that he was one of the Servants mention'd in this Affray and made his Escape from the Assizes; and he will also prove that my Lady was at a Hurling Match at a Place call'd *Rathimny Bogg*, between Major *Sutton* and my Lord, at the Time of this pretended Pregnancy.

## 4. EDMOND BOURK.

Mr. Le Hunte.] Did you know *Arthur*, late Lord *Altham*?

Edmond Bourk.] I did, Sir.

Q. When did you first know him?

A. At his first coming to *Ross*.

Q. Did you ever live in his Service?

A. I did.

Q. When did you go to live with him?

A. I can't exactly tell the Year, but I liv'd almost six years and two months with him.

Q. Where did my Lord live then?

A. At *Dunmaine*.

Q. Did you live there before my Lady came over?

A. I did.

Q. How long after you liv'd there did she come to live with him?

A. I can't tell how long.

Q. What was your Service?

A. I was a *Postilion* and came up for my Lady to *Dublin*.

Q. Where did my Lord and Lady go from *Dublin*?

A. They went from *Dublin* to *Dunmaine*.

Q. From what Place in *Dublin* did they go to *Dunmaine*?

A. From Captain *Briscoe's* in *Bride-Street*.

Q. Are you certain that they went from Captain *Briscoe's*?

A. By the virtue of my Oath, they did; we took them up there.

Q. Did you know Mrs. *Mary Heath*?

A. I did, Sir.

Q. What was she?

A. She waited on my Lady *Altham*, as her Gentlewoman then.

Q. When did my Lord and Lady get to *Dunmaine*?

A. We got to *Dunmaine* in *December*, it was about *Christmas-Eve*.

Q. Who went along with you besides my Lord and Lady?

A. I can't tell you; but the Chariot broke by *Johnstown*, and a great many were in Company, but I can't tell who they were.

Q. Did Mrs. *Setwright* go with you?

A. Mrs. *Setwright* was sent down two days before, and two Maids with her, *Betty Doyle* and *Mary Waters*.

Q. Do you remember any body visiting at *Dunmaine* for any Time?

A. There was Mrs. *Briscoe* there.

Q. Was any one along with her?

A. Her Daughter was.

Q. How long might they have staid there?

A. I can't tell, but I was sent with Miss *Briscoe* to the lower part of the County of *Wexford*.

Q. Do you know one Mr. *Boyd*?

A. I did.

Q. Where did he live?

A. He liv'd at *Rossclare*.

Q. Did not you go to his House?

A. We did call there, and stay'd there a Night or two, to the best of my Knowledge.

Q. Do you know a place call'd *Rathimny-Bogg*?

A. I do; I was born near it.

Q. Did you know Major *Sutton*?

A. I knew him very well.

Q. Did you know of any Diversion or sport at *Rathimny-Bogg*?

A. I remember a great *Hurling* there.

Q. What was the Occasion of it?

A. I was told it was between Major *Sutton* and my Lord *Altham*.

Q. Do you remember any Person that was at that *Hurling*?

A. My Lady *Altham* was there, Sir.

Q. Were you at the Assizes of *Wexford* at any time after this *Hurling*?

A. I don't know whether it was after or before?

Q. When was that Assizes?

A. *Easter* Assizes in the Year 1715.

Q. Did you go from the House of *Dunmaine* to the Assizes?

A. I did, Sir.

Q. Did any body go along with you?

A. My Lady went in the Chariot and one Mrs. *Giffard*.

Q. Who rode *Postilion*?

A. I did.

Q. Who was *Coachman*?

A. *John Weedon*.

Q. Do you know of any quarrel that happen'd at the Assizes, and on what occasion?

A. I do very well, I have a reason to know it, Sir.

Q. Tell your reasons.

A. Some Gentlemen of the County of *Wexford* were impeach'd with this thing of enlisting and harbouring Men for the *Pretender* at that time, and above all, there was the Parish Priest that is living yet, one Father *Michael Downes*, and he was our Parish Priest; and this *Downes* being impeach'd, my Lord's Servants, four or five of us, went to see the Priest, and his Prosecutors were with him at the House of one *Hatchell's* that kept the *Swan*; we fell out with the Prosecutors, because that we thought to make it up with them not to prosecute the Priest, my Lord; and upon that, when they would not make it up, a quarrel happen'd between us, and please your Lordship, and to be sure we paid the poor People very sorely, but next Morning we were taken Prisoners by Mr. *Hervey*, Colonel *Ram*, and Mr. *Symes*, and kept in Confinement from Morning till about eight o'Clock at Night.

Q. Was



Q. Was my Lord *Altham* at the Affizes ?  
 A. My Lord *Altham* was there. ——— A little time after I came home he discharg'd me, because I made my escape, but *two* were put on their Trial.  
 Q. Who were they ?  
 A. They were *Ned Mac Cormack* and *Bryan Neale*, the *Running Footman* and the *Groom*.  
 Q. Where did you go after my Lord discharg'd you his Service ?  
 A. I believe to *Kilkenny*, and liv'd with Alderman *Barnes* there some little time.  
 Q. Do you know Mr. *Lambert* ?  
 A. I do, very well.  
 Q. Did you ever live in his Service ?  
 A. I liv'd with him after I left *Kilkenny*.  
 Q. How long did you live in *Kilkenny* ?  
 A. I believe I did not live in *Kilkenny* above two or three Months.  
 Q. Do you remember any quarrel between my Lord and Lady *Altham* in your time ?  
 A. I don't remember any quarrel.  
 Q. Did they continue to live together as long as you knew them ?  
 A. They did, they were separated after.  
 Q. Where did you live then ?  
 A. I believe with *Aaron Lambert*.  
 Q. Where did he live then ?  
 A. He kept a House in *Ross* then.  
 Q. How far is *Ross* from *Dunmaine* ?  
 A. Four small miles from *Dunmaine*.  
 Q. Did you see my Lady after the Separation ?  
 A. I did.  
 Q. Where ?  
 A. In *Ross*.  
 Q. Do you recollect the House that my Lord and Lady lodg'd in at *Wexford* at the Affizes ?  
 A. I set her down at one Mr. *Sweeney's*.  
 Q. Pray, whilst Mrs. *Briscoe* was in the House at *Dunmaine*, did you hear of any *Miscarriage* that my Lady had ?  
 A. I never did of any *Miscarriage*, or of her being with Child till within these three Years.  
 Q. Did she appear to you to be a Woman with Child ?  
 A. She never did.  
 Q. Do you know *Joan Landy* ?  
 A. I do.  
 Q. Do you know of her nursing a Child ?  
 A. I do.  
 Q. Was that after my Lady came to *Dunmaine* ?  
 A. She was big with Child at the time my Lady came.  
 Q. Where did she live at that time ?  
 A. In my Lord's House.  
 Q. Was she brought to Bed there ?  
 A. No, she went to her Father's House to Lye-in.  
 Q. How far was that from the House of *Dunmaine* ?  
 A. As near as I can guess, an *English* mile.  
 Q. Did you ever see a Child nurs'd by *Joan Landy* in the House while my Lady was there ?  
 A. I never did, by virtue of my Oath.  
 Q. Did you ever see a Child of Lord *Altham's* with *Joan Laffan* ?  
 A. I never did, nor no body else.  
 Mr. Mac Manus.] My Lord, he swears that no body else saw that she took care of the Child, as well as him.

Mr. Le Hunte.] Did you ever see any Child of Lord and Lady *Altham's* in the care of *Joan Laffan* ?  
 A. Never did, Sir.  
 Q. Did you ever see a Child that was *Joan Landy's* Child with *Joan Landy* ?  
 A. Yes, I did, Sir.  
 Q. Did you live with my Lady at any time after the Separation ?  
 A. I did.  
 Q. How long after ?  
 A. As near as I can guess, almost two Years after they parted I waited on her in the Town of *Ross*.  
 Q. Did you see any Child there with her that was reputed her Child ?  
 A. I never did.  
 Q. Did you ever see any other Child with her there ?  
 A. Yes, I used to bring in Children myself to her, she was very fond of them.  
 Q. What Lodging was you at there ?  
 A. At one Mrs *Wright's*.

CROSS EXAMINATION.

Mr. Serjeant Tisdall.] How long did you live with my Lord *Altham* ?  
 A. To the best of my Knowledge, about *six* Years with my Lord and Lady.  
 Q. Did they live together during the whole time you liv'd with them ?  
 A. They did not, Sir.  
 Q. When were you first hired into the Service ?  
 A. I can't tell.  
 Q. When did you leave my Lord ?  
 A. I left him in the Year 1715.  
 Q. What time of that Year ?  
 A. I can't tell.  
 Q. How soon was it after they came from *Wexford* ?  
 A. I can't tell how soon.  
 Q. Was it a Fortnight, three Months or a Year, or how long ?  
 A. No, it could not be a Year, or a quarter of a Year.  
 Q. What was the Occasion of your leaving the Service ?  
 A. The Occasion was that I made my escape from *Wexford*, and my Lord promised he would not keep them that escaped.  
 Q. Recollect how long you were at *Dunmaine* before you were discharg'd ?  
 A. I might have been at home a Fortnight or three Weeks.  
 Q. How long before you left my Lord, did he and my Lady come to live together ?  
 A. My Lady came in *December* 1713, to the best of my Knowledge.  
 Q. Where was you then ?  
 A. In *Dunmaine*, and they met in *Dublin*.  
 Q. How soon after did you come for her ?  
 A. I was not long in Town.  
 Q. How soon after they met, did you come for her to Town ?  
 A. I can't tell how long.  
 Q. Was you in Town with my Lord that Winter before they met ?  
 A. I was not.

Q

Q Did



Q. Did you live with them again after you left them in the Year 1715?

A. I did.

Q. What time?

A. I can't tell.

Q. Were they separated before you came to live with them?

A. they were; my Lady was at *Rofs* at that time.

Q. When you returned to live with my Lord, was there any Child in the House?

A. Never a Child that I know of.

Q. How long did you live with him after you return'd?

A. I can't tell how long.

Q. Did you live a second time with them before the Separation?

A. To the best of my Knowledge, I did.

Q. Did you return to the Service before my Lord separated from my Lady?

A. I'm not sure whether I did or no.

Q. Was you in the House at the Separation?

A. I was not.

Q. Where was you at that time?

A. To the best of my Knowledge, in *Rofs* with Mr. *Aaron Lambert*.

Q. Were you in his Service then?

A. I was.

Q. How long did you live with him?

A. I can't tell, but my Lady was some time in *Rofs* before I came to live with her.

Q. Did you return to my Lord's Service after you were discharg'd that time after the Affizes?

A. Indeed, I can't tell.

Q. Can't you tell whether you liv'd with him after at *Dunmaine*?

A. I am not positive; I can't tell you, Sir, whether I ever liv'd with my Lord again at *Dunmaine*.

Q. You say, you were turn'd away after the Affizes?

A. I was.

Q. Upon your Oath, did you return to live with my Lord again?

A. Upon my Salvation, I can't tell whether I return'd again to him.

Q. Recollect how often you liv'd with him?

A. I remember I liv'd with him once, because he owed me some Wages.

Q. What Wages?

A. I believe two Years Wages.

Q. When were those Wages due to you?

A. They were due after the Affizes.

Q. Can you Answer or not, whether you return'd again to the Service?

A. I cannot Answer whether I did or no.

Q. Do you know Mr. *Amias Bush*?

A. I do.

Q. Had you any Conversation with him?

A. Not as I can remember, Sir.

Q. Or with any other Person, that my Lord had a Child by his Lady?

A. By the virtue of my Oath, I never did declare it to mankind.

Q. Did you ever declare that you would go and swear for Lord *Anglesey*, and be made a Man of?

A. By the virtue of that Oath I've taken, I never did.

Q. Did any body offer you any Money for swearing in this Cause?

A. Yes, Mr. *Mac Kercher* did.

Q. What did he offer you?

A. He offer'd me 300 *l.* for swearing.

When the Witnefs said this, there was a loud Huzza in the Court.

Q. Who was the Agent that offered you 300 *l.*

A. Have Patience and I'll tell you the Man, one *Paul Keating*, he offered me 300 *l.* in private between me and himself, if I would join his young Lord as he call'd him.

Q. When was this Offer made you?

A. About this Time two Year.

Q. Why did not you appear and declare this on the former Trial?

A. I kept off from the last Trial, and from this 'till I was compell'd by Law.

Q. Was you ever in Company with Mr. *Mac Kercher*?

A. I was in the Room with *Mac Kercher*, and he sent for me, and Mr. *Bob Snow* carried me up Stairs to an upper Room.

Q. What is it you can say of Mr. *Snow*?

A. Nothing of him; but that I was in Mr. *Snow's* Room along with *Mac Kercher*.

Q. When was this?

A. About this Time two Year, to the best of my Knowledge.

Q. What was the Conversation that pass'd between Mr. *Mac Kercher* and you?

Q. Why then I'll tell you that, Gentlemen. I came in the Evening to Mr. *Snow's*; Mr. *Snow* was fee'd as an Attorney against me in a Cause between a Man and me —

Q. Give an account what pass'd in Conversation in the Presence of Mr. *Snow*?

A. *Mac Kercher* and *Snow* went up from the Company, they were to sup there.

Q. Where?

A. At Mr. *Snow's* that Night; and I told my Landlord, Mr. *Flood*, that Mr. *Snow* was to be there that Evening, and *Snow* told me that *Mac Kercher* and *Annesley*, and *Levingstone* were to sup there that Night, and he told me if I would come there at eight o'Clock, that I could see *Mac Kercher*. Upon that I did, and we went up Stairs, Mr. *Snow*, and *Mac Kercher* and me, and he ask'd me if I knew this young *James Annesley* Esq;? Where is he, says I? I hope, my Friend, you'll do nothing against his Interest says *Mac Kercher*; indeed I won't, nor appear at all, says I, if I can help it; so there's all I can remember.

Q. Did there pass any other Conversation between you that Night?

A. There might, but not to any Purpose.

Q. When do you say the 300 *l.* was offered to you?

A. About this time two Year.

Q. And who made you the offer of it?

A. *Paul Keating*, and carried me to one Captain *Forester's*.

Q. When this Offer was made, was any body present?

A. No, he carried me aside to a little Garden at Captain *Forester's* Door, and he said that when the Cause was over I would get the raising of my Family.

Q. What did he offer you this Money for?

A. He offered it for to join his young Master *James Annesley*, because he thought that I knew



a great deal by living with Lady *Altham*, only to give my Promise to testify for *James Annesley*.

Q. What did he tell you, you were to swear?

A. The Words were in general.

Clerk of the Crown.] Reads the Estreat for the Assault on the Prosecutors at *Wexford*, as follows, to shew that *Edmond Mac Cormack* and *Bryan Neale* were taken into Custody and fin'd for the said Assault, viz.

ffin. Imposit. ad præd. General Assiz. sup. seperal Person in Custod. Vice Com. *Wexford*.  
*Edmond Mac Cormuck* indict. ad præd. Assiz. pr. quodm Assault. et Cul. pro ffin. in sum.— o o 6  
*Bryan Neale* indict. ad præd. Assiz. pr. conf. pro ffin. in sum. ————— o o 6

Mr. Smith.] My Lord, the next Witness is Mrs. *Sweeny*, your Lordship observes that the last Witness gave an Account of my Lady *Altham*'s going from *Dunmaine* to *Wexford* Assizes, and that she was drove to Captain *Sweeny*'s at *Wexford*. He, my Lord, is dead, this Mrs. *Sweeny* is his Widow, her Husband took the House in *March* 1714, and she has liv'd there ever since; she will give account that Lord and Lady *Altham*, Mrs. *Giffard* and other Persons came and lodg'd in the House and that my Lady did not appear to be with Child.

5. MRS. SARAH SWEENY.

Mr. Le Hunte.] Where do you live, Madam?

Mrs. Sweeny.] I live at *Wexford*.

Q. What is your Christian Name?

A. *Sarah*.

Q. How long have you liv'd there?

A. These four or five and thirty years.

Q. Pray, do you know Mr. *John Master-son*?

A. I do.

Q. Did you know Mr. *Walsh*?

A. I did.

Q. Do you remember that they were charg'd with any Crime at *Wexford*?

A. I do.

Q. When?

A. In the Year 1715.

Q. Did you know the late Lord or Lady *Altham*?

A. I did; I knew them both, but my Lord much better than my Lady.

Q. Was it usual for you to set Lodgings?

A. It was.

Q. Can you recollect whether they lodg'd at any time and when in your House?

A. They lodg'd with me in the Year 1715, in *April*.

Q. Do you know upon what Occasion, or what was a doing in *Wexford* at that time?

A. The Assizes was at that Time.

Q. Pray, Madam, can you recollect how long they lodg'd with you, and when they came, whether before or after the Assizes?

A. They came just at the Assizes, and they staid no longer than the Assizes held, *four Nights* or *five* I can't tell which.

Q. Can you tell whether any Gentlewoman came with Lady *Altham* to the Assizes?

A. Yes, there did come Mrs. *Giffard*, and Mrs. *Mary Roe*, and there came Mrs. *Heath*.

Q. Was Mrs. *Heath* a Servant to any of the Ladies, or whom?

A. She was her Ladyship's Woman.

Q. Where did she Lodge?

A. At my House, Sir.

Q. Can you be certain that it was in the *Spring* Assizes 1715 that they were there?

A. I'm very sure of it.

Q. Pray, can you give any Reason for that Certainty?

A. I can give several Reasons if there was an Occasion.

Q. Please to inform the Court and the Jury what your Reasons are?

A. It was in the Year 1714 that I came to that House I now live in, I came to it in *July*, just before the Queen died; and in 1714 Mr. *Sweeny* was ill of a Fever, and was just recover'd out of it as her Ladyship came to my House; he was recover'd the *March* before she came.

Q. When she was there did you frequently see her?

A. I did see her very often, Sir.

Q. Where did she generally Diet in *Wexford*?

A. She dined and supp'd at my House.

Q. Did she Dine and Supp at your Table?

A. I din'd with her at the Table, and with my Lord, when he din'd there.

Q. Had she any Signs of Breeding or being with Child?

A. I did not perceive any, neither do I believe she was with Child.

Q. Could she have been with Child then and you not know it?

A. If she had been with Child I should have heard it.

CROSS EXAMINATION.

Mr. Fitz-Gerald.] You say, I think, that my Lady came to Lodge at your House in *April* 1715?

A. Yes.

Q. What particular Reason have you for fixing it in *April* 1715?

A. I tell you; in *July* before the Queen died I came to the House, and the *April* following she came to lodge there.

Q. Where did you live before?

A. At *Kenny's-Hall* a little out of *Wexford*.

Q. How long did you live there?

A. From the latter end of the Year 1713, 'till we left it.

Q. What particular time did you leave that Hall?

A. In *July* 1714, just before the Queen died.

Q. Was that House, where you receiv'd Lord and Lady *Altham*, repair'd when you took it?

A. We repair'd it before we came there.

Q. After you took the Lease what time did you take to repair it?

A. Not very long; I can't tell how long.

Q. Did



Q. Did the Repairs take up three Months?  
 A. I believe it might take up three Months, but I was sick at that Time, and don't know how long it was.  
 Q. What time was it you took the Lease?  
 A. We took the Lease in the Year 1714.  
 Q. What Time of that Year?  
 A. In the beginning of 1714. I have the Lease if you have a mind to see it.  
 Q. Do you know a Man call'd *Nicholas Duffe*?  
 A. I do.  
 Q. What is he?  
 A. He was Master of a Vessel for my Husband.  
 Q. Did he live with you then?  
 A. He did not live with us then.  
 Q. Was not he Master of the Ship at that Time?  
 A. He quit that Employment before I was married to Mr. *Sweeny*. He went Master before for him.  
 Q. Did he live in your House in April 1715?  
 A. No, he did not.  
 Q. Did he live with you when you took the House and you were Sick?  
 A. He was at Sea in 1714 when I was ill of the Fever, and he came home at that time in the year 1714, and was not employ'd after, for my Husband parted with the Ship.  
 Q. You say he was not in April 1715 in your House?  
 A. Not to live with me.  
 Q. Was not he then Master of your Husband's Ship?  
 A. He was not in that Employ, we were building a Ship then.  
 Q. Was not he in the Town of *Wexford* in the Year 1715?  
 A. I don't know but he might.  
 Q. Do you know Captain *Maxwell*?  
 A. I do, very well.  
 Q. Do you know his Wife?  
 A. I do, I am very well acquainted with her.  
 Q. Did they not visit you in April 1715?  
 A. I can't tell in what Year, I don't know but she might be there, and they liv'd in the House where I liv'd in before.  
 Q. Do you know one *David Conolly*?  
 A. I don't know any such body as *Conolly*, I know one *David Connell*.  
 Q. Was he a Servant of your's at that time?  
 A. He was not a Servant, but in and out with me.  
 Q. How long did he live with you?  
 A. Really, I can't tell.  
 Q. What do you think of that man, what is his Character?  
 A. Why really, I never thought it worth my while to inquire; he did my Business well enough.  
 Q. Did you and Mrs. *Maxwell* visit frequently?  
 A. Yes we did, and I was Godmother to one of her Children.  
 Q. What is Mrs. *Roe's* Name now?  
 A. Mrs. *Crumpton*.  
 Q. Did you declare to any Person of your Acquaintance in *Wexford* that you were not sure when Lady *Altham* was at your House?

A. I don't know whether I did or no; to be sure at the beginning I could not recollect it, but after, when I consider'd about it, I found it out.  
 Q. Did she never lodge with you but once?  
 A. Never but once.  
 Q. Was she never there at the Water-drinking Season?  
 A. She never was.  
 Q. And that time she lodg'd with you was at the Assizes?  
 A. It was at that time.  
 Mr. Smith.] This Lady has mention'd that her Sister, who is now Mrs. *Crumpton*, came to *Wexford* at that time in Company with Lady *Altham*; she was then call'd *Roe*, my Lord, we shall now produce her to the same Point.  
 Court.] Don't you think you have prov'd it already without producing her?  
 Mr. Daly.] I would produce Mrs. *Giffard* and no more to that Fact, I own it.  
 Court.] Call Mrs. *Giffard*.  
 Mr. Smith.] This Mrs. *Giffard* not only was at *Wexford* with my Lady at the Assizes, but was a particular Intimate of the Family, and she will prove to your Lordship, that she not only accompanied my Lady to the Assizes, but that she returned from *Wexford* to *Dunmaine* with her, and saw my Lady almost every Day while she stay'd there; and never saw or heard of a Child; and your Lordship must recollect that one of the Witnesses did mention, that she was censured for her great Intimacy in that Family, and that *Joan Laffan* said, she and my Lady were very great.  
 6. Mrs. ANNE GIFFARD.

Mr. Le Huute.] Mrs. *Giffard*, are you a married Woman, or a Widow?  
 Mrs. *Giffard*.] A Widow.  
 Q. The Widow of whom?  
 A. Of *Ravenscroft Giffard*.  
 Q. What is your Christian Name?  
 A. *Anne*.  
 Q. Where did your Husband live?  
 A. At *Ballysop* in the County of *Wexford*.  
 Q. Do you know a Place call'd *Dunmaine*?  
 A. I do.  
 Q. How far is *Ballysop* from *Dunmaine*?  
 A. Not two Miles, a Mile and half or thereabouts.  
 Q. How long have you liv'd at *Ballysop*?  
 A. We went to live there forty Years ago, and continued to live there 'till now, only seven years that I liv'd at *Ross*.  
 A. Do you remember the late Lord and Lady *Altham*?  
 A. I do remember them very well.  
 Q. Where did they live when you knew them?  
 A. They liv'd sometimes in *Dublin* and sometimes at *Dunmaine*.  
 Q. Do you remember when my Lady first came to live at *Dunmaine*?  
 A. I do.  
 Q. When was it?  
 A. In the Year 1713, two or three Days before Christmas-Day, as I think, I am not positive to the Day.

Q. Were



Q. Were you intimately acquainted with her?

A. I was indeed.

Q. Did you ever see her with Child whilst you knew her?

A. Upon my Oath, I never knew it, nor never heard it.

Q. Did you ever know of her having a Child at Dunmaine?

A. I never did indeed, Sir.

Q. Do you remember to have travell'd with her at any time to any and what Place?

A. I did to Wexford in a Chariot.

Q. From whence?

A. From Dunmaine.

Q. Did you go with my Lady in the Chariot?

A. I did, and my Lord rode.

Q. What time of the Year, and what year was it?

A. I believe it was in the Spring.

Q. Of what Year?

A. The time when Mr. Masterfon and Walsh were tried.

Q. Where did you lodge in Wexford?

A. At Mrs. Sweeney's.

Q. Who lodg'd with you there?

A. My Lord and Lady Altham.

Q. You mention'd something of Walsh and Masterfon, what is the Reason that you remember any thing of them?

A. Because my Lady Altham and I were in Court to hear their Trials.

Q. What do you call, Court?

A. At the Session-House.

Q. What is the Use of that House?

A. The House where the Judges are.

Q. Were you and she in that House at this time of the Affizes?

A. We were indeed.

Q. How long did you stay in Wexford that time?

A. We staid Four Days.

Q. Did my Lady and you travel together from Wexford?

A. I came home with her in the Chariot, and lay there that Night.

Q. Do you remember any Woman Servant to have travell'd with you?

A. Mrs. Heath; she rode.

Q. Were any other Persons with you?

A. My Husband went.

Q. And who else?

A. A Sister of mine went.

Q. What was her Name?

A. Mary Roe.

Q. Is that her Name at present?

A. Her Name now is Crumpton.

Q. Where did you go to from Wexford?

A. Back to Dunmaine.

Q. Where did you lie that Night?

A. I lay there.

Q. How long was you acquainted with Lady Altham after your return to Dunmaine?

A. Whilst she stay'd at Dunmaine.

Q. Do you remember any remarkable Eclipse of the Sun?

A. I do, the Eclipse was just after we came from Wexford; the Friday after we came home, I was at a Burying that Day and know it.

Q. What I ask you now is, whether during your Acquaintance with Lady Altham you perceiv'd her to be with Child, or knew her to be with Child?

A. I did not, nor never heard her talk of it.

Q. How often did you visit?

A. Frequently, sometimes twice, sometimes once a Week, or a Fortnight, or so.

Q. Did you go to the same Parish Church?

A. Sometimes; she very often came to White-Church.

Q. Can you recollect after her coming to Dunmaine, that she went to Dublin?

A. I remember she went once or twice to Dublin.

Q. Have you been in the Room with her when she dress'd or undress'd herself?

A. Yes, I have pretty often.

Q. Did you ever observe any Symptoms of Pregnancy?

A. Upon my Oath, I never did.

Q. I ask you, Madam, whether my Lady was big belied at the Affizes?

A. Indeed she was not.

Q. Do you know one Anne Bennet that was formerly your Servant?

A. I never had a Servant of that name in my Life.

Q. Do you know any Person of the Name of Bennet that liv'd with you?

A. I don't know any one of the Name of Bennet, that liv'd with me.

Q. Is there any one of the Name of Anne that liv'd with you, that is now married to the Name of Bennet?

A. They say so; I heard so to Day, but I know nothing of it.

Q. Did you ever tell any Servant of your's of the Name of Anne, that my Lady had been with Child, or had a Child?

A. I never aid, I could not say it.

CROSS EXAMINATION.

Mr. Harward.] If I don't mistake, you were examined at the Trial in the Exchequer?

A. I believe I was; to be sure I was.

Q. Did not you then swear to all the Company that went with you to Wexford?

A. And so I do now.

Q. Were you not ask'd at that Trial, to give an account of all that went with you to that Affizes?

A. Well, I was.

Q. Did you give that account?

A. I did, of every one that I remembred.

Q. What I ask you now is, did you give an Account that this Mrs. Roe went along with you?

A. No, I did not.

Q. Then you did not give an Account that she went?

A. No, Sir, I did not.

Q. In what manner was it that she went?

A. She rode.

Q. Did she ride single or double?

A. She rode single.

Q. How did Mrs. Heath ride?

A. Single too.

Q. Pray, Madam, Lord Altham rode I suppose, too?

A. Yes.

Q. And how did my Lady and you go?

A. It was a Chariot and Six that we went in.

Q. By virtue of your Oath, was not you in Mourning for a Brother of your's at that Time?

A. I was not; I was in Mourning but not for him, he was dead a great while before that.

R

Q. Was



Q. Was it not to hear this Trial that you and Lady *Altham* went to *Wexford*?

A. I don't remember whether it was that or no we went for, but we went there to hear it when we were in *Wexford*.

Q. So that it was Curiosity that carried my Lady and you into the Court-House to hear these Trials?

A. We went to see *Wexford*; to be sure it was our Curiosity that carried us into Court when we were there.

Q. Was not that the only motive that induced you to go there?

A. It was not that that induced us to go.

Q. What induced you to go?

A. We went for our pleasure.

Q. Was you ever in a Court-House before for your Pleasure?

A. Indeed I was in that same very often before when I was a Girl, but what signifies that?

Q. Upon the Trial in the *Exchequer* did you not say that you could not tell whether it was before or after the Queen's death that this Trial was?

A. Well, I don't know whether I said it or no.

Q. Did you not upon that Trial say so?

A. Indeed I can't tell whether I said it or no.

Q. Recollect whether you did not upon that Trial say, you did not know whether their Trial was before or after the Queen's death?

A. Why, Sir, if I went after the Queen's death, you know that I could have said nothing else; what do you mean by saying that upon that Trial I said I could not tell whether before or after?

Q. Did not you say upon that Trial that you did not know whether it was before or after the Queen's death?

A. I don't believe I said any such Thing at all.

Q. Did you or did you not say upon that Trial that it was before or after?

A. Upon my Word, I can't tell that I said any such thing.

Q. If you can't tell whether you said that it was before or after the Queen's death that you went to *Wexford*, how can you say now that it is either one or the other?

A. I don't remember.

Q. Would you be understood to say that you don't know whether it was before or after the Queen's death that you went to *Wexford*?

Court.] Is not that fully said already?

Mr. Harward.] I don't apprehend it so, my Lord.

Q. Which was it, by virtue of your Oath, was it in the Queen's time or after her Death that you went with Lady *Altham* to the Affizes?

A. I could not tell you now; I don't know, Sir.

Q. Now, Madam, I ask you this, how came it that you could not tell that this Mrs. *Roe* went with you?

A. I might have remembered it indeed, but I did not at that time.

Q. Had you at this time any extraordinary Intimacy or Business with Mrs. *Sweeney*?

A. She's my Sister.

Q. Oh! I did not know that, Madam. Pray, were you in Mourning then?

A. I believe I was.

Q. For whom?

A. I can't tell whether for any Body, I wore *Black* sometimes.

Q. Were you in Mourning for any body at that time?

A. I wore *Black*, but I can't tell whether I was in Mourning for any body.

Q. Was my Lady in Mourning?

A. She was.

Q. As to this Trial that you went to see, give us some account of what pass'd there?

A. I remember nothing of the Trial, but that I saw the Gentlemen in the *Dock*.

Q. Did you stay, Madam, till they were acquitted or not?

A. Indeed I can't tell.

Q. Who sat by you in Court?

A. Lady *Altham*.

Q. Did not Mr. *Colclough* sit by her?

A. He did.

Q. Did not he hand her in and out of Court?

A. I believe he did.

Q. Are you sure he did?

A. To the best of my Knowledge, he did.

Q. Did not you swear on the Trial in the *Exchequer*, that you could not tell whether he did or not?

A. I say to the best of my Knowledge, he did.

Q. Who went into the Court-House with Lady *Altham*?

A. He and I and Lord *Altham* went with her.

Q. Did not you swear that you could not tell whether he did or not?

A. I can't recollect whether I did or not.

Q. Did you know any of my Lord's Family?

A. I knew *Rolph*, the *Butler*, and *Anthony Dyer*, my Lord's Gentleman.

Q. Did you know *Bourke*?

A. Yes, I did.

Q. Did you know *John Weedon*?

A. I did, and Mrs. *Setwright* too, I was often there and knew them.

Q. What was *Bourke*?

A. The *Postilion*.

Q. Was *Doyle* the Clergyman tried at the same time.

A. He stood on the side Barr, and was not tried that time?

Q. Did you know the Judges?

A. I knew one *Foster*, I believe.

Q. Did Lord and Lady *Altham* go to *Dublin* after this?

A. They went to *Dublin* soon after *Wexford* Affizes.

Q. Did not they go twice after?

A. I can't tell indeed, I remember once they did.

Q. Did not you swear on the Trial in the *Exchequer* that you could not tell whether it was before or after my Lord return'd from *Dublin* that you were at *Wexford* Affizes?

A. I never did.

Q. Madam, do you know one Mrs. *Bulke*?

A. Not I, indeed I don't.

Q. Did you ever declare to your Remembrance, that you did not know but this Affizes was in the Year 1716?

A. I can't remember whether I did or no.

Q. Did you, or did you not?

A. Not that I know of, indeed I did not; I'm sure not to Mrs. *Bulke*.

7. SARAH



7. SARAH WEEDON.

Mr. Smith.] Before she comes it will only be proper to observe to your Lordship, that she has been mentioned by some of the Witnesses, as being the Coachman's Wife at the Time of the Birth; and, my Lord, Mrs. Sarah Weedon was the Coachman's Wife, and she'll give your Lordship an Account of her Knowledge of the Family at Dunmaine during the Period of Time, to which the Birth is sworn to; and I believe, when she's produced and has given her Evidence, that you'll think she's not a material Witness for the Prosecutors, as she was upon a former Occasion sworn to be.

Mr. Morgan.] Do you know a Place call'd Dunmaine?

Sarah Weedon.] Yes, Sir, I do.

Q. Did you know Lady Altham?

A. Yes, Sir.

Q. And Lord Altham?

A. Yes, Sir.

Q. Where was you when my Lady came first to Dunmaine?

A. I was at Dunmaine.

Q. How long did you continue there after she came?

A. I believe very nigh three Years, to the best of my Knowledge.

Q. Did you know one Mrs. Briscoe?

A. I did, Sir.

Q. Did you know her Daughter?

A. I did.

Q. Did you see them at Dunmaine?

A. I did, Sir.

Q. Pray, now answer where was you at the Time that they were there?

A. I was in the House, Sir.

Q. Did you know of any Accident that happened to Lady Altham during the Time they were there?

A. I did, not know of any Accident that happened to her.

Q. Any Miscarriage?

A. Upon my Word, I never knew nothing of it.

Q. What Condition in point of Health was my Lady in during the Time that they were there?

A. To the best of my Knowledge, she ail'd nothing at all.

Q. Did you ever hear of any and what Accidents happening upon account of Sawcers during the time they were there?

A. I protest I remember no such thing.

Q. No China broke?

A. I don't remember any such thing, Sir.

Q. I ask now, whether you know of any of that Family to be deliver'd of a Child during the time you were at Dunmaine?

A. I do.

Q. Who was that?

A. One Hesther, that my Lord call'd Pouty.

Q. I ask you whether this Hesther was deliver'd of this Child before or after my Lady came to Dunmaine?

A. Before, Sir.

Q. Do you know of any other Person deliver'd after she came?

A. Not in the House, Sir.

Q. Do you know of any out of the House?

A. Mrs. Setwright was, and my self out of the House.

Court.] Was Lady Altham with Child while you were at Dunmaine?

A. She was not, my Lord.

Q. Did you see her with Child at any time whatever?

A. Upon my word, I did not. My Lord, what I say is truth, and nothing but the truth.

Mr. Morgan.] You say that this Hesther was deliver'd of a Child, can you recollect the Midwife?

A. If I should tell you the truth, they sent for one Mrs. ———— I forget her Name, ———— Mrs. Shiel in Ross; but to tell you the truth, before Mrs. Shiel came, I deliver'd her.

Q. Who was sent for Mrs. Shiel?

A. Really I can't tell; there was a Fellow in the House but I can't tell his Name now.

Q. Now recollect and say, whether any other Persons were brought to Bed at Dunmaine during your time?

A. There was Juggy Landy.

Q. Now I ask you, did you see this Child of her's?

A. I did.

Q. Did you know it?

A. I did, Sir.

Q. Did you see it at any other Place?

A. I did, Sir.

Q. With whom?

A. A great while afterwards when we were in the County of Carlow the Child was brought there.

Q. To what Place?

A. To Carrickduffe.

Q. Who was it with there?

A. It was in the House.

Q. With whom do you mean?

A. With Lord Altham.

Q. Was that the very Child?

A. I say, Sir, it was the same I saw whit Joan Landy at Dunmaine.

Q. Did you ever see any Child at Dunmaine consider'd as my Lord Altham's Child by his Lady?

A. Never in my Life; I would not say it for all the Estate that ever Lord Anglesey had, if it was false.

Q. Where do you live now?

A. I live in Connaught.

Q. With whom there?

A. With Colonel Blakeney.

Q. At what Place does he live?

A. At a Place call'd Abbart.

Q. Have you any Children?

A. I have, Sir.

Q. What are they?

A. Sons.

Court.] What is it you propose by this Evidence?

Mr. Morgan.] What I propose by this Evidence is this, that we shall shew a very unfair attempt made upon this Woman on the Part of the Prosecutors.

Court.] Mr. Mac Kercher has made an Affidavit, which I wish, for his sake, he had not.

Mr. Morgan.] He says, my Lord, in his Affidavit, he serv'd this Woman with a Subpœna, I hope I may ask her that question.

Court.] Go on, Sir.

Mr. Morgan.]



Mr Morgan.] Was you serv'd with a *Subpæna* by him, and when?

A. I can't tell the Day of the Month, it came one Day and I was to appear in *Dublin* the next Day.

Q. How far is Colonel *Blakeney's* House from *Dublin*?

A. It is *threescore and three Mile off*.

#### CROSS EXAMINATION.

Mr. Callaghan.] Did you live as a Servant in the House of *Dunmaine*?

A. I did, Sir.

Q. In what Station were you there?

A. I was *House-keeper* before my Lady came there.

Q. Was you so after?

A. I was not; Mrs. *Setwright* was.

Q. In what Capacity did you serve in the House after she went there?

A. I was in the House after she went there.

Q. But I ask did you serve in the House after?

A. I did after, because I did every thing that was to do.

Q. How long did you continue to live in the House?

A. I liv'd in the House till I took a House of my own.

Q. When was that?

A. I can't tell exactly the time, but it was just at the end of the Avenue, and I was as frequently in the House then, as I was before.

Q. I ask you how soon after my Lady went to *Dunmaine* was it that you left the House?

A. I can't tell exactly the time, Sir.

Q. Was it a Month?

A. Oh! a great deal more than *one*, or *two* or *three*.

Q. Was it before or after Mrs. *Briscoe* and her Daughter went there?

A. I was in the House when they came there.

Q. I ask you only, whether you were a Servant living in the House at the time they went there?

A. I was.

Q. Upon your Oath, did not you keep an Ale-house at the Bridge then?

A. No, not till after they went there.

Q. Did you keep an Ale-house there before Mrs. *Briscoe* and her Daughter left *Dunmaine*?

A. No, I did not, to the best of my Knowledge.

Q. What time did they go to *Dunmaine*?

A. I can't tell the Year, nor Month, nor any thing of that, it is too long ago for my Memory.

Q. How long did they stay there?

A. I can't tell that again.

Q. How long after they left it was it, that Mrs. *Setwright* was brought to Bed?

A. I can't tell; she was with Child coming to the House; but I cannot tell the time she was brought to Bed.

Q. Was it a Month, or six Weeks or two Months after they left *Dunmaine* that she was brought to Bed?

A. Mrs. *Briscoe's* Daughter was a *Gossip* to the Child, to the best of my Knowledge, and they were there at the same time.

Q. Was you out of the House at the time Mrs. *Setwright* was brought to Bed?

A. I think I was not out of the House then.

Q. Were you or were you not?

A. I can't tell that exactly.

Q. But you are sure you were a Servant when Mrs. *Briscoe* went away?

A. No, I did not say that: I say, to the best of my Knowledge, I was in the House.

Q. You remember Mrs. *Hester's* being brought to Bed?

A. I do, very well.

Q. Was that before or after my Lady went to *Dunmaine*?

A. It was before my Lady went there.

Q. You mention'd the Midwife's Name?

A. *Shiel* it was.

Q. Could that Midwife be sent for, for any Purpose to Lady *Altham*?

A. She could not, because Lady *Altham* never had a Child; she never had a Child.

Q. Was not it before Lady *Altham* went to *Dunmaine* that *Hester* was brought to Bed?

A. Yes, don't I tell you so?

Q. I think you say you were at *Carrickduffe*?

A. I was, Sir.

Q. Was not you there upon a Day, that was celebrated as a Birth-day of Lord *Altham's* Son?

A. There never was such a thing in this World.

Q. Can you take upon you to say there was not?

A. I am as positive of it as of any thing in the World.

Q. Had you any Conversation with any body in relation to Lady *Altham's* having had a Child?

A. No, never since I was born.

Q. Upon your Oath, did you never say that my Lady had a Child?

A. Never in the Course of my Life.

Mr. Reeorder.] Now we shall judge whether Mr. *Mac Kercher's* Information be true or not.

Court.] He was certainly misinformed.

#### 8. ELENOR THOMAS.

Mr. Le Hunte.] The Evidence she will give is this—

Court.] Don't open it now she's here.

Mr. Le Hunte.] What is your Name?

Elenor Thomas.] *Elenor Thomas*.

Q. Is that the Name you go by now?

A. *Elenor Fisher* is; my maiden Name was *Thomas*.

Q. Did you know one *Mary Waters*?

A. I did.

Q. Did you know the late Lady *Altham*?

A. I did, Sir.

Q. Did you ever live in her Service?

A. I did.

Q. When did you go there?

A. I can't tell you the Year, but I was the second Servant she hired after she came to *Dunmaine*.

Q. What was the nature of your Service?

A. I was *House-maid*.

Q. How



Q. How long did you live with my Lady ?  
 A. I liv'd a *Twelvemonth* with her.  
 Q. Where did you go when you left the Service ?  
 A. I went to one Mr. *Bunbury's* of *Ballysefin*.  
 Q. Did you ever hear of one Mrs. *Briscoe* and her Daughter's being at *Dunmaine* ?  
 A. I was in the House at the same time.  
 Q. What House ?  
 A. My Lord's, in *Dunmaine*.  
 Q. Whilst you were *House-maid*, do you remember to have seen them there ?  
 A. I did.  
 Q. Did you continue there till they left it ?  
 A. I did indeed.  
 Q. Do you know of Lady *Altham's* having a miscarriage at *Dunmaine* ?  
 A. Indeed I never did.  
 Q. Did you know Mrs. *Pigot* ?  
 A. Indeed I did.  
 Q. Of what Place ?  
 A. Of *Tyntern*.  
 Q. Did you ever live in her Service ?  
 A. I liv'd eight Years, Maid and Wife, with her.  
 Q. When did you go to live with her ?  
 A. I went to her after I left *Dunmaine*.  
 Q. I thought you said you went to Mr. *Bunbury's* ?  
 A. I was only a Year at *Bunbury's*.  
 Q. And how long did you live with Mrs. *Pigot* ?  
 A. I was eight Years, Maid and Wife, with her.  
 Q. Did you live any where in her Service but at *Tyntern* ?  
 A. No where but at *Tyntern*.  
 Q. Can you recollect the Time she was living there when you hired ?  
 A. I was a *Twelvemonth* her Servant at *Tyntern* before she came from *Dublin*.  
 Q. When did she come from *Dublin* to *Tyntern* ?  
 A. I went to her at *Lammas*, and the *Lady-day Twelvemonth* following she came to *Tyntern*.  
 Q. What Year was it ?  
 A. Indeed, Sir, I can't tell.  
 Q. Where did she live for that Year ?  
 A. In *Dublin*, Sir.  
 Q. Who hired you then ?  
 A. Her Steward, *James Byrne*, hired me.  
 Q. Was there any Separation between Lord and Lady *Altham*, to your Knowledge ?  
 A. I remember they parted ; I was at *Tyntern* at the same time.  
 Q. Was Mrs. *Pigot* there at that Time ?  
 A. I think she was ; I can't tell positively.  
 Q. Whilst you were at *Dunmaine* and Mrs. *Briscoe* there, did you hear that Lady *Altham* miscarried of a Child ?  
 Mr. *Walth.*] That is a leading Question ; don't answer it, Woman.  
 Court.] Did you ever see Lady *Altham* with Child ?  
 A. I never saw her with Child, nor never heard of her having a Child.

CROSS EXAMINATION.

Mr. *Mac Manus.*] You say, you liv'd at *Dunmaine* ?  
 A. I do, Sir.  
 Q. What Year ?  
 A. Indeed, Sir, I can't tell you the Year.  
 Q. Upon your Oath, what Year did you go to live there ?  
 A. I can tell you the time of year, but not the Year.  
 Q. Can you tell the year you left *Dunmaine* ?  
 A. I serv'd her Ladyship a Year.  
 Q. Was it in the Year 1716 or 1717 that you left her Service ?  
 A. I can't tell, if you'd shoot me for that.  
 Court.] Where were you hired ?  
 A. In *Dunmaine* House.  
 Q. Who hir'd you ?  
 A. My Lady hir'd me herself.  
 Q. During the time that you were there, did you see any Child there ?  
 A. I never did.  
 Q. Did you see Lady *Altham* frequently ?  
 A. I did, I was the next Servant to Mrs. *Heath*, and often saw her.  
 Mr. *Mac Manus.*] Did you see the Furniture of that House ?  
 A. I did.  
 Q. Did you see any *Sawcers* with *Odd Figures* on them ?  
 A. I never saw the *Sawcers*.  
 Q. Did you never see those *barwy Sawcers* in the House ?  
 A. I never did.  
 Q. Don't you believe they were there ?  
 A. I don't know ; I never did see them.  
 Q. Did you never hear of a Miscarriage occasion'd by the breaking of these *Sawcers* ?  
 A. I never saw or heard of a Miscarriage.  
 Q. Did you never hear it among the Servants ?  
 A. I never did, upon my Word.  
 Q. Upon your Oath, did you never hear it ?  
 A. Upon my Oath and upon my Life, I never did.  
 Q. Could there not be a Miscarriage and you not know of it ?  
 A. There could not, Sir ; for my Lady could not miscarry unknown to me.  
 Q. Could she do any Office of Nature unknown to you ?  
 A. I don't know what you mean.  
 Mr. *Bradstreet.*] The next Witness will shew your Lordship where Mr. *Cliffe*, who is said to be Godfather to this Child, was from the fifth of *May* till the middle of *June* 1715. His Son will appear here to prove that ; and we'll shew some Rules of the Court, where he made Motions during that time.  
 Mr. *Walth.*] I believe many a Rule is entred in a Lawyer's Name that he knew nothing of.  
 Mr. *Bradstreet.*] First, we'll produce his Son, to shew where he was in the Year 1715. We'll shew that first.

Court.]



Court.] If this be as you have open'd it, it will be the most material Thing that has happen'd yet; and I believe there will be little in the Thing after, for it cuts off two or three of the most material Witnesses on the other side.

The Night being pretty far advanc'd, Mr. Cliffe had retired to his Lodgings, and the next Witness call'd was Mrs. Halpen; but she being also out of the Way, Mr. Tench was call'd.

9. JOHN TENCH, Esq;

Mr. Spring.] Pray, Sir, inform the Court and the Jury, whether you had any Knowledge of Mrs. Pigot of Tyntern?

Mr. Tench.] I had, Sir.

Q. You did know her?

A. I knew her, Sir.

Q. Was any Friend of your's concern'd for her in her Affairs?

A. My Father receiv'd her Rents for above thirty Years.

Q. Who was concern'd in the Management of her Affairs and Receipt of her Rents in the Year 1715?

A. My Father was.

Q. Can you give the Court and the Jury an account where Mrs. Pigot was in the Month of November 1714 and from thence down to the latter end of the Year 1716?

A. From my own Knowledge I don't know where she was; but from Letters I can tell you.

Q. Have you any reason to enable you to form a Judgment where Mr. Tench was in \_\_\_\_\_

Court.] Where was Mrs. Pigot in November 1714?

A. Of my own Knowledge I can't tell where she was.

Mr. Spring.] Are your Father's Accompts, and Papers and Letters come to your Hands?

A. I have them, Sir.

Q. Have you any Accompts relating to Mrs. Pigot's Affairs in the Years 1714, 1715 or 1716 in his hand-writing?

A. I have in the Year 1715.

Court.] It is proper to ask him if he has such; but what then? That won't prove where Mrs. Pigot was.

Mr. Spring.] My Lord, my next Question is whether he has any Letters of Mrs. Pigot to his Father?

Court.] That won't do. If she was produced here as a Witness, you might produce her Letters to confront her. We are not now upon the proof of Similitude of Hands.

Mr. Spring.] Was you at Tyntern in the Year 1714?

A. I can't tell where I was in 1714.

Q. Were you there in the Year 1715?

A. I was there in 1715.

Q. Where were you in May 1715?

A. Indeed, Sir, I can't tell.

10. JAMES WALSH.

Mr. Edmond Malone.] We produce this Witness, my Lord, to shew that Mrs. Pigot was in

another Country, at another Place attending her Husband, who had broke his Leg, at the time they pretend she was Godmother to this Child.

Mr. Edmond Malone.] Are you a married Man?

James Walsh.] Yes, Sir.

Q. In what Family did your Wife live when you married her?

A. In the Family of Mrs. Pigot.

Q. What Mrs. Pigot, Sir?

A. Mrs. Pigot of Tyntern.

Q. Did you know Counsellor Pigot?

A. I did, Sir, very well.

Q. I ask you then, if you recollect at any time when any and what accident or hurt happen'd him?

A. I do, Sir.

Q. Tell it?

A. Mrs. Pigot went to Dublin in 1714, about November or December, I'm not sure in what Month, and some time after Christmas Mr. Pigot went to London, and he came back again—

Q. Was it in January 1714-15 that he went to London?

A. I believe thereabouts.

Q. Well, go on.

A. He came back I believe about March or thereabouts, and he went to his Estate in the County of Limerick, and happen'd to break his Leg or Thigh in the Year 1715.

Q. What time in the Year 1715?

A. April I believe, or March, or thereabouts.

Q. At what Place did he break his Leg?

A. They tell me, Sir, at Glangoole; I was not with him there.

Q. How do you know he broke his Leg?

A. I know because Mrs. Pigot went from Dublin to him.

Q. What time did she go to him?

A. She went about April 1715.

Q. Where was she to go to?

A. Either to the County of Tipperary or County of Kilkenny, I can't tell which.

Q. How soon after he went to the County of Limerick, did she leave Dublin?

A. I can't tell exactly how soon she left Dublin, but she stay'd there till she brought Mr. Pigot home.

Q. To what Place?

A. To her House upon Arran's Quay.

Q. What time was that?

A. I can't exactly tell the time; I believe it was in the Year 1715.

Q. How long might she have stay'd away with him?

A. I can't tell exactly; I believe it was more than a Month; I believe it was two Months; I don't exactly know.

Q. When they came to Dublin, how long did they continue in Dublin without going into the Country again?

A. They stay'd in Dublin till she bury'd Mr. Pigot in 1717.

Q. Are you positive that she remain'd all that time in Dublin without going any where to the County of Wexford?

A. Yes, Sir, I can say that safely; and that she went home in the Year 1717, and sent me back to Dublin to make a Monument for Mr. Pigot at the outside of St. Paul's Church.

Q. How



Q. How long after their return to Dublin was it that he died?

A. He died in the Year 1717.

Court.] Are you sure that Mrs. Pigot was not at Tyntern in the Year 1715?

A. She was not, upon my Oath.

Q. Nor in the County of Wexford?

A. Indeed she was not, my Lord.

Q. How many Years did you live with her in all?

A. I can't tell how many Years, but I liv'd with her from his Death to her Death.

Q. And you are sure she was not in the County of Wexford from the time she came to Dublin, till she bury'd him?

A. I'm sure she was not.

CROSS EXAMINATION.

Mr. Harward.] Pray, Sir, where were you in Christmas 1714?

A. In Dublin, Sir.

Q. Where did you live in Dublin?

A. On Arran's Quay.

Q. Was you a House-keeper there?

A. I generally kept Mr. Pigot's House when they were in the Country, but that Year I did not.

Q. Did you keep his House in Christmas 1714?

A. I did not, Sir.

Q. Where were you then?

A. On Arran's Quay.

Q. Where were you in the beginning of March 1714?

A. I was in Dublin then.

Q. Where in Dublin?

A. In Lodgings of my own.

Q. Where were you May-day 1715?

A. In Dublin, Sir.

Q. Are you sure you were?

A. I was indeed, Sir.

Q. Where, in Midsummer 1715?

A. In Dublin.

Q. Now, I ask you, upon your Oath, was Mr. Pigot or Mrs. Pigot in their House at Dublin in the beginning of March 1714?

A. No, they did not come to Dublin till November 1714.

Q. Where was Mrs. Pigot in March 1714?

A. In the County of Wexford.

Court.] Do you mean March 1713-14, or March 1714-15?

A. In March 1714-15 she was in Dublin.

Q. Where was she in March 1713-14?

A. I can't tell, my Lord, I believe in the County of Wexford.

Mr. Harward.] Where was Mr. Pigot the first of May 1715?

A. I can't tell you whether in Dublin, or that he was Sick where he got his hurt.

Q. Can you say, upon your Oath, where he was the first of May 1715?

A. Indeed I'm not sure whether he was in Dublin, or whether he was where he broke his Limb.

Q. Now, Friend, where was Mrs. Pigot when the great Eclipse was?

A. I believe she was with her Husband where he broke his Leg.

Q. Was you in the County of Tipperary at the Time of the great Eclipse?

A. I was not.

Q. Where was she at that Time?

A. I suppose she was with Mr. Pigot.

Q. Don't be supposing with me; you know you ought to tell nothing but what you know, do you know where she was at the Eclipse?

A. She was, and I take it upon my Oath, she was where Mr. Pigot broke his Thigh.

Q. Where was that?

A. In the County, I believe, of Tipperary.

Q. How do you know that she was not in the County of Wexford?

A. Because I know she was not.

Q. Was not you in Summer 1715 in Dublin?

A. I was, part of the Summer 1715.

Q. How do you know that she was where her Husband lay ill at the time of the Eclipse?

A. I know it very well; she was with Mr. Pigot where he broke his Leg.

Q. Did you see her with him?

A. No, I did not.

Q. Why will you swear then she was with him?

A. Why, because I'm sure of it.

Q. How are you sure of it?

A. She told me she was going to him, I knew that she went there, and we all knew that she went there.

Q. Have you any other reasons for being so positive?

A. There are Letters from under her hand, giving an account that she was there.

Q. What Letters?

A. To her Agent Captain Tench.

Q. Pray now then, is not that the reason that you know she was there?

A. It is only one reason.

Q. Tell another reason?

A. Why, I'm sure she was there, because I know that she went there, and all that were along with her told me so.

Q. Do you know, of your own Knowledge, where she was?

A. No.

Court.] Did you see Mr. Pigot when he came to Dublin?

A. I did.

Q. In what condition did he then appear to you?

A. He appear'd as if he had a Leg broke, and was very bad.

Court, to the Jury.] The Witness says, he saw Mrs. Pigot go down to her Husband, and saw them return together.

Mr. Recorder.] Where he swears that she went to her Husband at a certain time, that she said she was going to her Husband, and that he saw her come back with him, with his broken Leg, it is as full Evidence as is necessary.

II. MARY WALSH.

Mr. Lee.] What's your Husband's Name?

Mary Walsh.] James Walsh.

Q. Did you know Mrs. Pigot?

A. I did.

Q. Did.



Q. Did you know her in the Year 1715?  
 A. Yes, I did.  
 Q. Where was she then?  
 A. In *Dublin* then.  
 Court.] Where did she go from *Dublin*?  
 A. She went to where Mr. *Pigot* broke his Thigh.  
 Q. Where was that?  
 A. Beyond *Kilkenny*, going up to *Munster*.  
 Q. Was you with her?  
 A. I was not.  
 Q. How do you know she went there?  
 A. Because she was sent for when he broke his Thigh.  
 Mr. Lee.] When did Mrs. *Pigot* come to Town after that?  
 A. I can't tell when she came up.  
 Q. Who came with her?  
 A. Mrs. *Wallace* and others, I can't tell who.  
 Q. Did you ever see Mr. *Pigot* after?  
 A. Sure, I was with him when he was buried.  
 Q. Do you remember when he came to *Dublin* after he had broke his Leg?  
 A. Why, I believe he came when she came.  
 Q. Who came to Town with Counsellor *Pigot*?  
 A. I can't tell you, Sir, I can't remember that.

## 12. JOHN CLIFFE, Esq;

Mr. Bradstreet.] My Lord, this is the Evidence that I have already open'd.

Mr. Bradstreet.] What is become of your Father?

Mr. Cliffe.] Dead.

Q. What Profession was he of?

A. A Lawyer at the Bar.

Q. Do you remember where your Father was in May and June 1715?

A. I can't take upon me to say where he was; he was in this Kingdom, but whether in Country or Town I can't take upon me to say from my own Memory.

Q. Where was you at that time?

A. I believe I was at the College.

Q. Pray, recollect and consider now, where your Father was in those Months?

A. I can't take upon me to say, from my Memory, where he was in May 1715.

Q. Where do you say you yourself were at that time?

A. I was in the College at that time.

Q. Did your Father attend the Terms regularly at that time, or not?

A. I believe he did; but I can't take upon me to say that I remember his keeping Terms regularly; I believe he did.

Mr. Bradstreet.] It appears to your Lordship that Mr. *Cliffe* was a Lawyer at the Bar; now, we are to falsify the Testimony of some Witnesses produced on the other Side, who swear he was Godfather to this Child, and therefore I hope we shall be at Liberty to shew some Rules of the Court, to prove that Mr. *Cliffe* was here in May and June in the Year 1715.

Mr. Serj. Tisdall.] I desire to know first, whether you've other Questions to ask the Witness.

Mr. Bradstreet.] My Lord, I remember when the Testimony of a Person was defeated, by shewing that the name of a Lawyer was to a certain Bill. He said, that the Lawyer was dead before that time, the Record was produced, and his name was at the Record in the Cause of *Reynolds* and *Sandys*. We produce this Witness to shew that those Witnesses, who swore his Father was Godfather to my Lord *Altham's* Child, swear false; can't we, in addition to his Testimony, shew the Rules of the several Courts that his Father made Motions in at that time?

Mr. Mac Manus.] My Lord, I only get up to answer Mr. *Bradstreet*. I do apprehend, that a Bill in *Chancery* is not Evidence, and the reason is, because any Man may file a Bill in the name of another; and therefore, unless you can shew some Proceedings have been had upon it, you cannot produce it in Evidence. The same Rule will hold in a cursary Motion in Court, which may be made by one Person and have another's name to it.

Mr. Daly.] It is never done on the Equity side, it is always moved in Court publickly.

Court.] I think it must appear, who the Council is that makes the Motion.

Mr. Mac Manus.] The Attorney is the Person to whom you must give Notice and is answerable for all the Proceedings; the Lawyer's name may be and often is mistaken by the Officer of the Court, it not being material what Lawyer moves.

Court.] The Question is, whether attested Copies of the Acts of a Court of Records may not be produced, proved and given in Evidence to falsify a Witness, to shew that a Person sworn at a certain Time to be in one Place, was then at another.

Mr. Daly.] The Indenture of a Fine is read against a Man every Day.

Mr. Solicitor.] By Act of Parliament.

Mr. Daly.] It is not made Evidence by Act of Parliament.

Court.] Put the Case distinctly.

Mr. Bradstreet.] I say, my Lord, I put it thus. After the Evidence of this Gentleman, his Father appearing to be a Lawyer at the Bar, and after the Evidence that has been given on the other Side of his being Godfather to a Child at *Dunmaine* at such a Time, I offer these Rules of his on Motion, to shew that he was not at *Dunmaine* at that Time, but in these Courts, and I instanc'd the Case of *Reynolds* and *Sandys* for a Precedent.

Mr. Robins.] Are they litigated Motions?

Mr. Bradstreet.] They are litigated, and hearings and open Pleadings.

## Mr. THOMAS BOURK.

Mr. Bradstreet.] What is that in your Hand?

Mr. Thomas Bourk.] Rules in the Court of Exchequer in Easter Term 1715.

Q. Are they all out of that Court?

A. They are, Sir.

Q. Are they true Copies?

A. They are.

Mr. Serjeant.



Mr. Serjeant Tisdall.] I believe it is an established Rule in Evidence, that the greatest Certainty must be had that the Nature of the Thing to be proved, will admit of. This is Evidence of no Sort of Certainty, because it depends upon a Person not on his Oath, and because he incurs no Penalty by falsifying the Name of the Lawyer. He is not upon his Oath not to put the Name of the Lawyer to the Record, and it is no more than a falsifying Evidence; and besides, Records can only be produced as Evidence between the Parties to them.

Mr. Mc. Manus.] I apprehend it no sort of Evidence at all.

Mr. Bradstreet.] What I apprehend is this, that this is Evidence which is contradictory to the Evidence that they have produced to this Point. Here are Motions that have been litigated, that have not passed of Course; but I say, they have been litigated, so that it is to be presumed, that he was litigating these Matters; and if so, it is impossible he could be at *Dunmaine* at that time. And as such, I hope is good Proof, and especially since he is dead.

Court.] I think it may be read to contradict a Witness; and I know that the Officer is so far from being permitted to do this Thing of falsifying a Name, that he is under a great Penalty for it.

Mr. Bradstreet.] The *Register* is answerable, though committed by the *Deputy*.

Court.] I think it may be read in Contradiction to the Witnesses.

Mr. Mc. Manus.] Your Lordship is going to establish a Rule that may be of dangerous consequence.

Court.] I'm not going to settle a Rule, but I only tell you what I think is and ought to be allowed as Evidence. The Journals of both Houses of Parliament have been produced in Evidence.

M. Walsh.] I beg leave to consider this—

Court.] Read the Notes and Orders.

Mr. Whyte.] Reads. This is the 5th of May 1715.

Powell v. Goodwin Ex. of Goodwin. } Mr. Cliffe pro Q. prays Interest for the 246l. which the Defendant's Testator received since they were paid the Mortgage Money.

Mr. Bayly. I do not oppose Plaintiff's having a Decree for the Money, but they move for Interest, and I am surpris'd at their demanding of Interest.

Cur. Take a Decree for the Money reported and Interest for the Money reported from the Time the Report was confirmed, and take an Injunction forthwith to be put in possession, and take a Decree for the Rent that fell due the 25th of March last.

Court.] He must be personally in Court at that Motion.

Mr. Whyte.] The next is the 6th of May, 1715.

Birmingham et al. v. Lord Shelburne } Mr. Cliffe pro Q. moves on the last Notes for putting off the giving of the Judgment of the Court on Affidavit.

The next is the 9th of May, 1715.  
Lawless v. Shee } Mr. Cliffe pro Q. moves on last Order for putting off the Hearing a Week.

The next is the 11th of May, 1715.  
Birmingham et al. v. Lord Shelburne } Mr. Cliffe prays a Day to speak to this Matter.

The next is the 12th of May, 1715.  
Archer v. Rogers } Mr. Cliffe pro D. moves for Time to answer personal Interrogatories as to several Books, in regard the Books are very large, and produces an Affidavit of this Matter.

The next is the 13th of May, 1715.  
Wattson v. Butler } Mr. Cliffe pro D. moves for to dissolve the Injunction.

The next is the 14th of May, 1715.  
White & Ux. v. Gale et al. } Mr. Cliffe pro Q. moves on the Notes upon the Hearing.

The next is the 31st of May, 1715.  
Thomas White v. David Dunbarr } Mr. Cliffe opens the Defendant's answer.

The next is the 1st of June, 1715.  
Archer v. Rogers. } Mr. Cliffe pro D. the Plaintiff never demanded any Custom for Timber these fourteen Years.

The next is the 18th of June, 1715.  
Birmingham et al. v. Lord Shelburne } Mr. Cliffe pro Q. moves on the Order for Liberty to read the Bill and Answer in the Cause of *Stewart* against the Lord Shelburne.

The next is the 23d. of June, 1715.  
King v. Gore et al. } Mr. Cliffe pro D. moves on Affidavit for a Commission to examine.

The next is the 25th of June, 1715.  
Birmingham et al. v. Lord Shelburne } Mr. Cliffe pro Q. *Stewart* et al. have a Decree against Lord Shelburne, *Evans* et al. and they have a Decree for the 29503 and also for the 21032 Acres, and on the Hearing of this Cause the Bill of *Stewart* and others and the Lord Shelburne's Answer was offered to be read, but the Court has not yet read that Bill and Answer, prays that Bill and Answer may be read, before the Bill is dismiss'd.

Mr. Bradstreet.] How many of your Name were at the Bar in the Year 1715?

A. I know of no Person of that Name but my Father.

Q. Did you ever attend the Courts?

A. I did not, Sir.

Q. Did you know Mr. *Anthony Colclough*, Sir?

A. Yes.

T

Q. Of



- Q. Of what Religion was he ?  
 A. He was reputed a *Papist*.  
 Q. Is he alive or dead ?  
 A. I've heard that he's dead.  
 Q. Did not he die a *Papist* ?  
 A. He was reputed a *Papist* during his Life.

## CROSS EXAMINATION.

Mr. Mc. Manus] Did you attend the Terms in the Year 1715, or 1716 ?

A. I did not attend in 1715 or 1716.

Q. Was your Father the only Person of the Name that professed the Law ?

A. There might be another, but I never heard of any.

Mr. Walsh.] It has not been taken notice of in what Terms these Motions have been made. Here is a Chasm of about a Fortnight between the first and last Motion, and there is so between the two Terms. The first Rule is on the 5th of May, the last the 25th of June, so that it must be in two Terms that they were made.

Court.] So it was,

Mr. Walsh.] Well, then there was a short Vacation, when he might have been in the Country and stood Godfather to the Child.

Court.] But you'll consider, one of the Witnesses said the Christning was *four* or *five* Weeks, and another *three* or *four* Weeks after the Birth.

## 13. MRS. PENELOPE HALPEN.

Mr. Lee.] What was your Maiden-name ?

Mrs. Halpen.] *Hunt*, Sir.

Q. Whose Daughter are you ?

A. Daughter to *John Hunt* of *Glangoole* near *Killenaule* in the County of *Tipperary*.

Q. Where did he live in the Years 1714, 1715, and 1716 ?

A. He liv'd there, Sir.

Q. Do you remember the Eclipse of the Sun ?

A. I do.

Q. Where was you at that time ?

A. I was at my Father's House then.

Q. Were you acquainted with Counsellor *Pigot* and his Wife ?

A. I was.

Q. What was the Occasion of your being acquainted with them ?

A. He broke his Thigh near my Father's House, and came and lay there till he was cured.

Q. When was that ?

A. In the Year that the Eclipse happen'd.

Q. Was Mrs. *Pigot* there ?

A. She was there at the Time of the Eclipse.

Q. How long did she stay after the Eclipse ?

A. I can't tell indeed.

Q. How long was she there before ?

A. I can't tell indeed.

Q. Was she a Fortnight, or a Month, or how long ?

A. I can't tell how many Days.

Q. Who came there first, he or she ?

A. He came first.

Q. How long was he there before she came ?

A. He was a few days before she came.

Q. Who came with her ?

A. Mrs. *Wallace*.

Q. In what State of Health was he ?

A. He was in his Bed with that broken Leg.

Q. How long did he keep his Bed ?

A. I can't tell how long he kept it, whether a Month or six Weeks I can't tell.

Court.] How long did his Wife stay with him ?

A. I believe more than a Month.

Mr. Lee.] Were they visited by any Body while they stay'd there ?

A. By several.

Q. Can you recollect any one that visited them ?

A. Mr. *Cesar Colclough* was there; whether to pay him a Visit or not I can't tell, but I saw him there.

Q. Did they leave your Father's House together ?

A. They did, to the best of my Memory and Knowledge.

Q. Where did they go to from your Father's House ?

A. I can't tell indeed.

Court.] Did they come to you Father's before or after the great Eclipse ?

A. Before.

Q. Was Mrs. *Pigot* there before the great Eclipse ?

A. She was indeed.

## CROSS EXAMINATION.

Mr. Serjeant Tisdall.] Can you be positive of the Time that she came to your Father's House ?

A. I can't tell what Time.

Q. Can you say whether she was there at the Time of this Eclipse ?

A. Yes.

Q. Are you sure she was ?

A. I am sure she was ?

Q. Was any Person with her at that time ?

A. Mrs. *Wallace* and she were there.

Q. Have you any particular Reason for being so certain ?

A. Yes, Sir, I was in the Garden when the Eclipse happened, and I called Mrs. *Wallace* out, to the Garden, to look at the Eclipse with me.

Q. When was the Eclipse ?

A. I can't tell, Sir.

Q. How long after the Eclipse did Mrs. *Pigot* stay ?

A. I can't tell indeed.

Q. How long did she come before it ?

A. Nor how long before, she came.

Mr. Le Hunte.] My Lord, we now produce Mr. *Sutton*, who will shew your Lordship that *Dennis Redmond* in the Year 1718 told him, that he carried a Midwife to *Dunmaine* to deliver one there, who was called my Lady.

## 14. WILLIAM SUTTON, Esq;

Mr. Le Hunte.] Pray, Sir, do you know *Dennis Redmond* ?

Mr. Sutton.] I do, Sir.

Q. When did you first know him ?

A. I believe in the Year 1717.

Q. Was



Q. Was he ever in the Service of you or your Mother?

A. He liv'd in the House with us in the Year 1717.

Q. Had you ever a Sister at that Time?

A. I had.

Q. Had she any occasion for a Midwife?

A. She had, Sir.

Q. Was any Body sent for a Midwife?

A. *Dennis Redmond* was sent.

Q. Will you give an Account of what you remember of the bringing her by him to your Sister?

A. I believe it was in *February* 1717 that I sent him to *Ross* for Mrs. *Shiel*; he went out pretty early in the Morning, so as I expected him home before Dinner, but he did not return 'till an Hour or two in the Night, which made me imagine he had Occasion to go further for her; and when he came home, I went to the Stable to look what Condition the Horse was in. When I came into the Stable, I found him taking care of the Horse, and ask'd him how he came to stay so late; he told me he could not get her to come away sooner; and upon examining the Horse, I took up the Saddle and Pillion and found him very warm and wet; upon which, I ask'd him how that came? He said, he could not tell, unless that unhappy Woman had piss'd upon the Pillien, for that she was fond of Drink and had serv'd him so once before.

Q. Upon what Occasion did he tell you he had been sent for her before?

A. He told me he had brought her once from *Ross* to *Dunmaine* for a young Gentlewoman, as he call'd her, that was kept by my Lord *Altham*.

Q. Go on, Sir?

A. He named the young Gentlewoman's Name, but I won't take upon me to swear her Name, I do not remember now what he call'd her.

Q. Who was it he said he brought the Midwife for?

A. He said, he brought her for a young Gentlewoman kept by my Lord *Altham*.

Q. Did he ever tell you that he fetch'd one for my Lady *Altham*?

A. He never did.

Q. What is the Character of *Redmond*, is he to be credited upon his Oath?

A. Why, of late Years he is not reckon'd a Man of Veracity in our Country.

Q. Is he to be believed upon his Oath?

A. I should take but very little Notice of his Oath now.

CROSS EXAMINATION.

Mr. Mc. Manus.] Why now?

A. From his general bad Character in the Country.

Q. How long has he had that general bad Character?

A. He has not had a good one these several Years.

Q. Do you know him to have perjur'd himself?

A. I did not know him to have perjur'd himself in a Court of Justice.

Mr. Edmond Malone.] We now produce *Nicholas Croake*, and he will shew that my Lady *Altham* stay'd in *Dunmaine* in the Months of *October* and *November* 1714, that she went to *Dublin* in *May* following, and stay'd in *Dublin* all the Year 1715.

15. NICHOLAS CROAKE.

Mr. Edmond Malone.] When did you first become acquainted with Lord and Lady *Altham*?  
*Nicholas Croake*.] The first time that I knew Lord *Altham* was in the Year 1711.

Q. And when with my Lady?

A. In the Year 1713.

Q. Where did you live in the Year 1713?

A. At *Ballycarrigmore*.

Q. How near is that to *Dunmaine*?

A. I believe very near two small Mile the high Road, but to go a short Road it is much nearer.

Q. You say in the Year 1713 you first knew my Lady, where was it you first saw her?

A. In 1713 that was the first time that I saw her at *Dunmaine*, sometime after she came there, in *December* 1713.

Q. Do you know *Rathimny Bogg* in that Country?

A. Very well.

Q. Do you know any thing particular that happen'd there?

A. I do, very well.

Q. Give an Account of what you know?

A. In the Year 1714 his Lordship and Major *John Sutton* made a *Hurling-Match* to be hurl'd at the *Green* of *Rathimny*.

Q. What time of the Year was that *Hurling Match*?

A. It was hurl'd in *September* 1714, or the beginning of *October* 1714, I can't tell whether in *October* or the latter end of *September*.

Q. Pray, Sir, how long after that and when did you see Lady *Altham* at *Dunmaine*?

A. I saw her that Day at the *Hurling Green* in her Chariot.

Q. Was my Lord there?

A. He was, on Horseback.

Q. Pray, Sir, were you at any time and when at *Wexford* in the Year 1715?

A. I was there at the *Affizes* in 1715, which happen'd upon *Easter Week*.

Q. I ask you, Sir, whether there were any and what persons of Consequence there that you took Notice of?

A. Lord and Lady *Altham* were there.

Q. Between the time of the *Hurling Match* and the time of the *Affizes*, did you visit them at *Dunmaine*?

A. I was very often at *Dunmaine* in the Year 1714, when they liv'd there.

Q. Were you ever there in *November* 1714?

A. I was often there between the *Hurling-Match* and *Christmas* 1714.

Q. Were you there in *November* that Year?

A. I can't tell that.

Q. Did



Q. Did you see my Lord and Lady often between the *Hurling Match* and the *Affizes*?

A. I did, Sir.

Q. When you saw my Lady at the *Affizes*, did you observe her to be with Child?

A. I never did, by the Virtue of my Oath, nor never heard she was 'till this *Affair*.

Q. After the *Affizes*, can you recollect any Misfortune that happen'd in your Family?

A. When I was at *Wexford Affizes*, my Father, being ill for several Months before, died; when I came home the 20th of *April* 1715, he was dead before I came home, and was buried that *Friday* that the great Eclipse happen'd, the 22d of *April*.

Q. Do you remember any Rejoicings at *Dunmaine* about the Time of the Eclipse, and on what Occasion?

A. I can't tell you on what Occasion, but on the 23d of *April*, being *St. George's Day*, that my Lord made a Merriment, it was on a *Saturday*, the Day after my Father's Burying.

Q. Did my Lord *Altham* celebrate any Day and what day in the Year with Dancing and Merriment?

A. That Day he did, the 23d of *April* 1715, and the 23d of *April* 1714 before.

Q. Did you see Lady *Altham* at the time you were there?

A. I saw her there, indeed.

Q. Was she present at the Diversion?

A. She was.

Q. In what Condition did she appear, as to being with Child then?

A. By the Virtue of my Oath, I never saw her appear as to say she was any way big, or with Child.

Q. How soon after did they go from *Dunmaine* to *Dublin*?

A. They went in *May* 1715 to *Dublin*.

Q. Did you see them at any time after and when?

A. I saw them in *August* 1715.

Q. Was that the *August* after the *Affizes*?

A. It was in *August* 1715 that I saw them in *Dublin*.

Q. Did you see them at any time that Year besides, and how soon after?

A. I did see them in *October* 1715, and in *February* 1715 I seen them here, and in *April* 1716, the latter end of that Month I came to Town to my Lord, and stay'd till he went into the Country in *May* 1716.

Q. Where was my Lady then?

A. I saw her at her Lodging.

Q. Where?

A. At Mrs. *Vice's* in *Essex-Street*.

Q. Can you say when my Lord return'd to *Dunmaine*?

A. He went from *Dublin* to *Dunmaine* in *May* 1716.

#### CROSS EXAMINATION.

Mr. Mac. Manus.] You say, you knew my Lord and Lady *Altham* at *Dunmaine*?

A. I did, Sir.

Q. Pray, how often did you see them there?

A. I can't tell, but very often.

Q. I think you said, that my Lady was not with Child when you saw her?

A. I did say so, and I never heard it 'till this *Affair*.

Q. Might not she have been with Child and you not know it?

A. I should have heard it in the House where I was so Conversant.

Q. Might not she have been with Child and you not know it?

A. I never knew her to be with Child?

Q. What sort of a Woman was Lady *Altham*?

A. She was a clever proper Woman.

Q. Was she Tall?

A. She was Tall.

Q. Mayn't a tall Woman be with Child and you not observe it, if she was young with Child?

A. If she was, I never saw it nor heard it.

Q. Did you ever hear that she miscarried?

A. I never did.

Q. You say you were at the *Affizes* of *Wexford*?

A. I was.

Q. Was you there in *Easter Affizes* 1716?

A. In *Easter Affizes* 1715, I was there.

Q. Were you there in *Easter Affizes* 1716, or any other *Affizes*?

A. I can't tell but I might be at other *Affizes*, I don't remember which now.

Q. How came you to know you were there in 1715?

A. I gave you a Reason before, that my Father was ill when I went to the *Affizes* and I found him dead when I came home.

Q. Was Mr. *Colclough* at that *Affizes*?

A. I believe he may be there.

Q. Would not you have seen him, if he had been there?

A. There may be several there, that I did not see.

Q. Name any person you did see there?

A. I saw Lady *Altham* there.

Q. How came you to take more particular notice of her being there than of Mr. *Colclough's*?

A. Because I was much better acquainted with them than him; and I had very great Reason for it.

Q. Did you see her go into Court?

A. I did not.

Q. Was she in it to your Knowledge?

A. She was, as I was told.

Q. Were you in the Court during the *Affizes*?

A. I was in it sometimes, and I can't tell well whether I was or not, but I believe I was.

Q. What colour'd Cloaths had she on at *Wexford* then?

A. I can't tell.

Q. Where was it you saw her at that *Affizes*?

A. At her Lodging at Captain *Sweeney's* at *Wexford*.

Q. Where did he live?

A. In the *Street* as you go down towards the *Goal*.

Q. How came you to see her there?

A. Because I came to his Lordship about some Business.

Q. Did you see her whenever you went to see my Lord at any other Time?

A. Perhaps I might, and perhaps not.

Q. Where



Q. Where was my Lord at *Wexford* when you saw him?

A. I saw him at Captain *Sweeny's* House.

Q. And where did you see my Lady?

A. She was coming out of the Room when I saw her.

Q. What sort of Cloaths did she wear then?

A. I can't tell what sort of Cloaths, it is so long since.

Jury.] Pray, Sir, when did you hear of your Father's Death?

A. Not until I came home in the Night.

Q. How long was you at home after he was buried?

A. I came home before he was buried, he died on *Wednesday*, and I came home that Night, and he was buried on *Friday* the *Twenty Second* of *April*.

Q. How far do you live from *Dunmaine*?

A. About two mile, or thereabouts.

Q. Was you at *Dunmaine* the *Twenty Third* of *April*?

A. I was there the *Twenty Third* of *April*, the Day after my Father was buried.

Mr. Mac Manus.] How many days did you stay at the Affizes?

A. Two Days, Sir.

Q. Were you there the first Day of the Affizes?

The Witness is directed to go off the Table.

The Examination of the Witnesses for the Traverser ended at *three o' Clock* in the Morning.

Mr. Solicitor.] I mentioned to your Lordship sometime ago, that if these Gentlemen offer'd any thing new, we would reserve a Liberty of Replying, and encountering some Testimony that we expected on the other Side. It relates to the Transaction at *Wexford*, on which they lay great Weight; in Answer to which, for the Satisfaction of the Jury, we shall beg leave to have two or three Witnesses produced.

Court.] Well, be it so. Who do you call?

Mr. Serjeant Tisdall.] We shall now call Mr. *John Masterfon*, the very Man that was tried at that Affizes.

Mr. Malone, Mr. Daly, &c.] Not one of the Witnesses said that he was tried, but that *Walsh* was.

Mr. Robins.] This is to shew whether Lady *Altham* was there or not.

I. Mr. JOHN MASTERSON.

Mr. Serjeant Tisdall.] Was you at the Affizes of *Wexford* in *Spring* 1715?

Mr. John Masterfon.] I was, Sir.

Q. Pray, Sir, was you arraign'd there?

A. I was.

Q. Can you say whether there was any Lady at the Court-House the Day you were arraigned?

A. There were some Gentlewomen there, but I know of no Lady.

Q. Did you take Notice of any of them?

A. There were two Aunts of mine, and a Sister of mine, and two Cousin Germans.

Q. Who were they? Name them.

A. My Aunt *Swords*, my Aunt *Talbot*, my Sister *Colclough*, and my Aunt *Talbot's* two Daughters.

Court.] Did you know Lady *Altham* then?

A. I did.

Q. Did you see her in the Court-House that Day?

A. I take it upon me, to the best of my Knowledge, to say that I did not see her.

Q. Do you know Mrs. *Anne Giffard*?

A. I did know her formerly, but have not seen her since the last Time I seen her at *Wexford*.

Q. Did you see her in Court?

A. To the best of my Knowledge, she was not there.

Q. Was she in *Wexford* at that Affizes?

A. If she was, she was not in Court.

Q. How do you know?

A. Because I did not see her.

Q. And might not she be there for all that?

A. She might be in disguise, may be.

Q. Would you know her now if you saw her?

A. I don't believe I would, for I live very remote from that Part of the Country, and have not seen her a long Time.

Q. Might not she be there and you not see her?

A. Not, except she kept behind backs.

Mr. Serjeant Tisdall.] Did you know Lady *Altham* before that Affizes?

A. I've seen her before at *Ross* at Captain *Butler's*, my Wife's Father-in-Law's.

Q. Were you acquainted with her Face?

A. I was.

Q. Did you, or did you not see her in the Court at the Affizes?

A. I did not see her, to the best of my Knowledge.

Mr. Daly.] Was Lord *Altham* there?

A. He was.

Mr. Serjeant Tisdall.] Was *Cæsar Colclough* there?

A. He was.

Q. Whereabouts was he in the Court-house?

A. I don't remember whereabouts he was.

Court.] This is improper; it is not regular, Mr. Serjeant. It is Evidence to the same Fact, your Evidence now must be only to discredit the Witnesses.

Mr. Serjeant Tisdall.] My Lord, it is a new Fact arisen upon their Testimony.

Q. Did you see Lady *Altham* there at any other Affizes?

A. I did.

Q. At what other Affizes?

A. I can't tell which Affizes, but it was after that, and I seen Mrs. *Giffard* with her, and it was not the Affizes I was tried.

Q. Are you sure it was not the Affizes 1715?

A. It was not.

Q. Were you tried at that Affizes?

A. I was arraigned, and tried then, and acquitted with Honour.

Q. Was Mr. *Walsh* tried at the same time?

A. He was not tried by the same Jury, nor the same Day.

Q. Pray,



Q. Pray, were you both at the same time in Court?

A. We were, Sir.

Mr. Recorder.] I ask you, Sir, were you under so little Concern, as that you reckon'd all the Ladies in the Court?

Court.] You establish him as a Witness properly produced, if you cross-examine him.

Mr. J. Masterfon.] There were more Women that I don't remember.

M. Serjeant Tisdall.] We beg Leave to produce Mr. Colclough.

Jury to Mr. Masterfon.] What was the Day you were tried on?

A. I believe it was on *Wednesday* I was tried, to the best of my Memory; and I believe it was the *twentieth* of *April*.

Q. On what Day was Mr. *Walsh* tried?

A. Mr. *Walsh* was tried the Day before me.

Q. Did the Court sit the Day after you were tried?

A. I did not mind that, for I was drinking with my Friends and minding other Business, and did not mind that; I believe the Judges discharg'd the Country.

Q. Were you in Court when *Walsh* was tried?

A. I was.

Mr. Mac Manus.] Mr. *Colclough* has met with a very great misfortune by the death of a valuable Son, but for the Sake of publick Justice he will appear here.

## 2. CÆSAR COLCLOUGH, Esq;

Mr. Serjeant Tisdall.] Were you at the *Spring Assizes* of *Wexford* in the Year 1715?

Mr. Cæsar Colclough.] I was, Sir.

Q. Did you see Lady *Altham* or Mrs. *Giffard* there?

A. I did not that I know of.

Q. Were you in the Court-house when the *Pretender's* Men were tried?

A. I was.

Q. Pray, Sir, were Lady *Altham* and Mrs. *Giffard* there?

A. To the best of my Knowledge, they were not.

Q. Did you sit by them at those Trials?

A. I did not, Sir.

Q. Pray, Sir, did you hand either of them into Court?

A. I handed neither of them into Court, by the Virtue of my Oath.

Q. Did you attend the whole Trial?

A. I did, and was there before and after.

Q. You were acquainted with Mr. *Pigot*, I presume?

A. What *Pigot*?

Q. Counsellor *Pigot* that was married to Mrs. *Pigot* of *Tyntern*?

A. Yes, he was married to my Relation.

Q. Can you say where he was in *Spring* 1715?

A. To the best of my Knowledge, he was then in *England*.

Q. Do you remember his breaking his Leg?

A. I do, Sir; I remember he broke it at *Glan-goole* in the County of *Tipperary*.

Q. Pray, Sir, what Year was that?

A. In the Year 1716, to the best of my Knowledge.

Q. Did you go to the County of *Tipperary* to see him?

A. I was in Town here when he broke his Leg, and my Cousin *Pigot* wrote to me, she had a Jointure upon that Estate, and wrote to me that I should come—

Mr. Daly.] I must object to this Evidence Mr. *Colclough* is going into; those Letters, Sir, that you received from Mrs. *Pigot* are not Evidence.

Mr. Serjeant Tisdall.] Do you know *Dennis Redmond*?

A. I do.

Q. Pray, Sir, what Character does he bear; is he a Man to be credited upon Oath?

A. Upon my Word, I believe he is to be credited upon his Oath; if you'll ask me for my reasons I'll give them to you.

Q. What is his general Character?

A. He has as good a Character as any Man of his Abilities that I know of in the World, I've known him these twenty Years.

Q. Pray, Sir, do you know when Counsellor *Pigot* died?

A. I believe in the Year 1719, or thereabouts; he was buried in *St. Paul's* Church, the time of his Death is on his Tomb there; I believe it was 1718 or 1719, or thereabouts, I'm not certain.

Court.] Do you know whether Mrs. *Pigot* went to her Husband when he broke his Leg?

A. She did; and stay'd with him till he came to *Dublin*.

Q. Do you remember what Year it was?

A. It was in the Year 1716, as near as I can recollect.

## CROSS EXAMINATION.

Mr. Recorder.] Can you swear that Lady *Altham* was not at the *Assizes* in the Year 1715?

A. I can, as positively as I can swear any thing in the World.

Q. Can you, that she was not at the *Assizes*?

A. I can, that she was not in the Court.

Q. Can you swear that she was not in the Town?

A. I can't take upon me to swear that she was not in the Town.

Q. Can you swear that Mr. *Pigot* did not break his Leg in the Year 1715?

A. I can, to the best of my Memory.

Q. But can you positively swear that he did not break his Leg in the Year 1715?

A. I can swear that it was not in the *Spring* 1715, because I was at the *Wexford Assizes*, and my Cousin wrote to me to come to her.

Q. Where was she?

A. She was at *Glan-goole*.

Q. At whose House there?

A. At one *Hunt's*, it was a thatch'd House.

Q. Do you remember *Penelope Hunt*, a Daughter there?

A. I can't tell, I might see Women there, but did not take such Notice as to remember them.

Q. Don't



Q. Don't you believe that Mr. Hunt's Family knew when Mr. Pigot broke his Leg? Was not it broke near them?

A. Upon my Word, Sir, I don't believe they knew better than I; because I was directed by my Cousin to come down, and I did; and I found her there, and Surgeons setting his Leg, and I'm sure it was the Year 1716.

Q. Where was Mrs. Pigot in the Year 1715?

A. She was in the Winter 1714, I'm positive that she was at *Tyntern*, and she seldom left it till towards *May* or thereabouts.

Q. Do you know *James Walsh*?

A. He did not live with her then.

Q. Did not he live with her in the Year 1715?

A. No, Sir, nor his Wife neither.

Q. Where did they live?

A. They liv'd in Town, or somewhere else, but not in our Family.

Q. Was not he an Attendant of the Family at that time?

A. No, Sir, I believe he was then a Door-keeper to the Play-House.

Q. Upon your Oath, do you know that of your own Knowledge?

A. I do know it so far, as I had it from his own Mouth, upon my Oath, that he was a Door-keeper at the Play-House.

Q. How long before that was he in their Service?

A. He had not been in the Service before.

Q. Was not he in the Service at all?

A. He was afterwards, but he was not in the Service at the Time Mr. Pigot broke his Leg at all.

Jury.] Was Lord *Altham* at the Assizes of *Wexford* in 1715?

A. I don't recollect any thing about him at all, I was told he was, but he was a Man taken very little notice of.

Q. Do you know whether he was in Court or not at the Trial?

A. I don't know whether he was in the Court or not.

Mr. Recorder.] Do you remember where you were at the time of the Eclipse?

A. I was in the County of *Wexford*; I was hunting on the Mountain of *Forth* at the very Instant of the Eclipse.

Q. Did you, or did you not see Lord *Altham* at *Wexford* Assizes?

A. I did not see him there, to the best of my Knowledge.

Q. Recollect, and say upon your Oath, whether you did or no?

A. I don't recollect, I can't say I did not see him or that I did, upon my Oath.

Mr. Serj. Tisdall.] We shall trouble your Lordship but with two Witnesses more, and them but to two short Points. The first relates to *Edmond Bourke*; we produce Mr. *Bush* to give an Account of that Man, and a Character of him too.

3. ARTHUR BUSH, Esq;

Mr. Solicitor.] Do you know *Edmond Bourke*?

Mr. Bush.] I do, him of *Collemkill*.

Q. Do you remember that he was a *Postilion* to any Body?

A. I don't.

Q. What is he now?

A. He is a kind of a Farmer now.

Q. Had you any Discourse with him about the Affairs of the *Anglesey* Family?

A. I had a Discourse with him.

Q. Give an Account what that Discourse was?

A. A little after the Time that Mr. *Annesley* and Lord *Anglesey* were at *Ross* examining Witnesses, this *Bourke* came to my House about some Business of a Justice of Peace, and after I had done what he came about, I ask'd him whether he was at *Ross* and what was doing there; he told me there was a great deal of Company, and he said he gave some Evidence there. I then ask'd him on which side he was a Witness; he told me, on the Earl's side. What was it, says I, that you had to say? He swore that he was Servant to Lord *Altham*, when he liv'd at *Dunmaine*, and that there was a Kitchen-maid there that my Lord had got with Child, that she was under the Cook in the Kitchen, and that all the Family disliked her because she took a great deal upon her for lying with my Lord. That one Day there was a Hare in the Kitchen to be dress'd for Dinner, and the Cook took the Skin of the Hare off and threw it at her, and hit her upon the Back, and said, damn you, for a Whore, if I can do nothing else, I'll mark your Bastard. Some time after, he said, she was brought to Bed of a Son, and they were all desirous to see if it had that Mark, and they run to see it, and it had the Mark of the Hare's Skin upon the Back of it. I told him, this is a very material Thing, and I thought you were a cunninger Fellow than to be pinn'd down to swear such a thing as that. Oh! says he, if they don't like that, I can say that my Son was that Day drown'd, and that I was a Madman and did not know what I was doing. He swore further, that there was a Quarrel between my Lord and Lady *Altham* on account of *Tom Palfrey*; and upon that, he said, they parted, and my Lord liv'd at a Place call'd *Dunmaine* and she in *Ross*, and he went with a Compliment from my Lord to my Lady, with a how do you do, and said, that he saw my Lord very fond of the Child; and, says he, I spoke to my Lord about it and said, How can you be so very fond of that Bastard? Why, says he, I got him, and I'll take care of him, I'll get him to be a Captain of Horse.

Q. What Character has this *Bourke*?

A. He's of a very bad Character.

Q. Is he to be believ'd upon his Oath?

A. I'll not believe him; nor no one that ever heard talk of him would believe him.

Q. How long have you known him?

A. I've known him these six and twenty Years, and I've known him under a bad Character during that Time.

#### CROSS EXAMINATION.

Mr. Recorder.] Had you any Discourse with this Man about a Child of Lady *Altham's*?

A. No indeed, he told me that she never had a Child.

Mr. Justice BLENNERHASSET.

Gentlemen of the Jury, The Traverser, *Mary Heath*, is indicted for Perjury, committed by her on her Examination in the Court of *Exchequer* in a Cause, wherein *Campbell Craig*, Lessee of *James Annesley* was Plaintiff, and the Earl of *Anglesey* Defendant.



Defendant. The several Assignments of Perjury in the Indictment are as follow. First, it is laid in the Indictment, that she swore on that Trial that Lady *Altham* never had a Child, while she, the Traverfer, liv'd with her. Secondly, that Lady *Altham* never had a Child at *Dunmaine* in the County of *Wexford*. The third is that there never was a Child as a Child of Lord *Altham's* and *Mary* his Lady christned or living at *Dunmaine-House*, while she, the Traverfer, was there. The fourth, that she never saw a Child in the Hands or Care of *Joan Laffan* while she was at *Dunmaine*. And the fifth is this, that Lady *Altham* did not Miscarry of a Child at *Dunmaine*. The Indictment, Gentlemen, averreth the Contrary of all these Facts, sworn by the Traverfer, to be true, and that she has been guilty of malicious, willful and corrupt Perjury. There have been many Witnesses produced by the Prosecutor in support of this Indictment, and many in support of the Traverfer, and it has been admitted that there was a Verdict in that Cause tried in the *Exchequer*, and that that Verdict was given on the Side of the Party, who was to gain by having the Traverfer's Testimony discredited: And it is also admitted that those several Facts above-mention'd were sworn by the Traverfer on that Trial in Ejectment. It is likewise admitted by both Sides that the Traverfer lived with Lady *Altham* from the Month of *October* 1713, the time of her first coming into this Kingdom, till the Year 1729, when Lady *Altham* died. All these are admitted to shorten the time. Gentlemen, it is very late and I see you are all greatly fatigued; I don't wonder at it, for I think we have sat here without Refreshment for near *Twenty-two* Hours; you have heard the Evidence on both Sides and seen the Witnesses, so that it will be unnecessary to take up more of your time. I shall only observe to you, that the Crime the Traverfer stands charg'd with is a Crime of a high Nature; the Consequence of a Conviction is no less than to make her perpetually infamous, never to be believ'd after in a Court of Justice; and therefore it is that Men of Honour will see, that Evidence is clear and demonstrative, before they will lay such an Imputation by their Verdict on any Body: You will, for this Reason, weigh the Testimony on both Sides, and compare the Credit of the Witnesses, and, if, on the Whole, you shall believe that the Ballance goes on behalf of the Crown, you will then find the Traverfer guilty; if, on the other Hand, the Testimony in Favour of the Traverfer outweighs the Crown Evidence, or is equal with respect to Credit, even in that Case Juries rather incline to Mercy than otherwise; so that, Gentlemen, you'll go together, and I'll wait for you till you please to return with your Verdict.

LORD CHIEF JUSTICE MARLAY.

GENTLEMEN,

My Brother has summ'd up and observed upon the Evidence, so far as he has gone, as clearly and distinctly as possible.

There have been Twenty-five examined on Behalf of the Prosecutor, besides three new ones produced on the Reply, and no less than fifteen on the part of the Traverfer. To repeat every thing they have said would be endless, and almost impossible, considering the Time already taken up in this extraordinary Trial.

I shall only observe to you, that in a criminal Case of this Nature, the Testimony to convict any,

Person of so great and infamous an Offence, ought to be so full, clear and consistent, that there can be no room to doubt the Truth of what it is offer'd to prove.

Whether what you have heard on Behalf of the Prosecutor, be such of itself, consider'd without regard to what has been given in Evidence for the Traverfer, you are the proper Judges.

Tho' there are many Witnesses for the Crown, there are few material ones; and it has been observed to you already, that the bare Declarations of my Lord or Lady *Altham* are not Evidence in this Case.

The first Witness produced, Mrs. *Cole*, is a material Witness, my Brother has fully repeated her Testimony; I shall not add to his Observations; she swears to the Miscarriage, and there is no other Witness brought to support her Testimony, though two contradict her.

The eleventh, *Edmond Howlett*, a Pedlar, is in some Measure a material Witness; he swears that the Child was own'd by Lady *Altham* before Mrs. *Heath*, and a Ribban bought for it by my Lady, and put on the Child by the Traverfer, and Diaper bought for it for Clouts, before it was born, by the Traverfer. You have seen and heard him, and are the best Judges how far he is to be credited.

*James Fitz-Patrick*, the fifteenth, swears, though not so fully, to the same Purpose, the publick owning of the Child; and to this Purpose are those, who are produced to prove the Enquiry for a Nurse, and the Child's being carried about by my Lord and Lady *Altham*.

*Elenor Murphy*, the eighteenth, and *Mary Doyle*, the nineteenth Witness are both material, and swear positively, that they were present at the Birth of the Child; and *Dennis Redmond*, the seventeenth produced, swears almost as fully to the same Purpose, though he does not swear himself an Eye-witness of the Birth.

*Joan Laffan*, the last produced by the Prosecutor, is a very positive and material Witness, if you credit her; she dry-nurs'd the Child in the House with my Lord, and, she says, with my Lady too, where the Traverfer saw him every Day. As to all the others, they are only Evidences as to their Belief and Opinion, meerly conjectural.

Doctor *Jemmat*, the Person of most Skill, told you, that neither he, nor the College of Physicians here, nor that in *London*, assisted by the Royal Society, can distinguish between a false Conception and a real Pregnancy.

I said the other Witnesses were only to their Belief and Opinion; I must except *Thomas Higginson*, who would have been a material Evidence, if his Memory did not fail him.

Now, Gentlemen, if you believe *Elenor Murphy*, *Mary Doyle*, *Dennis Redmond* and *Joan Laffan*, you have sufficient Evidence to convict the Traverfer, Mrs. *Heath*; but if you should not think them, Persons of Credit, you have no sufficient positive Evidence, on which you can ground such a Verdict.

Three of these Witnesses, *Murphy*, *Doyle*, and *Redmond*, swear to my Lady *Altham's* being deliver'd of a Son, and swear it very positively.

But if they swear truly, this Child was born at *Dunmaine*, and very near *Easter*, in the latter end of *April*, or Beginning of *May* 1715; and christened at *Dunmaine* by Mr. *Lloyd*, a Clergyman of the Church of *England*, three, or four, or five Weeks after its Birth, and had for Godfathers and Godmother, Mr. *Cliffe*, Mr. *Anthony Colclough* and Mrs. *Pigott* of *Tyntern*, who were all present.

If



If there was no Child of my Lady *Altham's* born at the Place and Time, they positively swear to, nor christened there, they are, I mean all these three Witnesses, directly perjured.

Now, if my Lady *Altham* was at *Wexford* Assizes at that time, she could not be deliver'd of a Child at *Dunmaine*. If Mr. *Cliffe* and Mrs. *Pigott* were, one in *Dublin*, and the other in the County of *Tipperary*, from the latter end of *April* 'till six Weeks after *Easter*, they could not possibly stand in Person, as Gossips to a Child of my Lady *Altham's* christened at *Dunmaine* in *three*, or *four* or *five* Weeks after it was born.

Observe, Gentlemen, that it appears by the Almanack, that *Easter-Day* in the Year 1715 fell on the 17th of *April*; the great Eclipse of the Sun happen'd on the 22d of *April*; King *George* the First's Birth-day, the 28th of *May*, was on a *Saturday*. On that Birth-day my Lady *Altham* was in *Dublin*. The *Spring Assizes* of *Wexford* began on *Easter-Eve* that Year. My Lady *Altham* is sworn to have been there.

Now, as to my Lady *Altham's* being or not being at the *Spring Assizes* of *Wexford* in 1715, if the Matter, should stand doubtful, because, though three Witnesses of Credit have sworn she was, yet Mr. *Masterfon* and Mr. *Cæsar Colclough* swear they did not see her there; yet 'tis impossible that Mrs. *Pigott* and Mr. *Cliffe* could be at a Christning at *Dunmaine*, when they were at many Miles

distance at the time that Christning was, if there were ever any such thing.

Mr. *Cliffe* is proved by the Records of the Court of Exchequer to have been in *Dublin*.

And Mrs. *Pigott* by a Witness (who, if she swears the Truth, cannot be mistaken) to have been at Mr. *Hunt's* in the County of *Tipperary*.

I must observe to you, that Mr. *Arthur Bush*, the third and last Witness produced by the Prosecutors on their Reply, swears only to discredit *Edmond Burke* the *Postillion*, a Witness on Behalf of the Traverfer.

If you believe the Traverfer's Witnesses, particularly Mrs. *Giffard*, *Mary Setwright* and *Sarah Weedon*, my Lady never was brought to Bed at *Dunmaine*; and consequently *Joan Laffan*, who swears that she had this Child put into her Hands by my Lord and Lady *Altham*, and that she dry-nurs'd it at *Dunmaine*, and all the rest of the positive Witnesses for the Prosecutor, are not in the least to be credited.

You, Gentlemen, are Judges of the Fact; 'tis your Business to weigh the Testimony on both Sides, and, as you find one or other deserves Credit, to find the Prisoner guilty or acquit her.

At half an Hour after Four o'Clock the Jury left the Box, and after twenty Minutes Stay, return'd with their Verdict for the Traverfer, *Not Guilty*.



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# APPENDIX.

Containing the Several Proceedings, had upon the  
INDICTMENT against *MARY HEATH*,  
for PERJURY.

The Bill was found by the Grand-Jury of the County of *Dublin*, at a Session of the Commission of *Oyer and Terminer*, on the 24th Day of *October* 1744; and there she traversed the Indictment, and removed the Record by *Certiorari* into the Court of King's-Bench, returnable the first Day of last Michaelmas-Term.

On the *Sixth* Day of *November* 1744, the Traverser appeared in the Court of King's-Bench, and the Court appointed the Trial to be at the Bar of the Court on the *Fourteenth* Day of *November*, with Liberty for either Party to apply in the mean Time to put off the Trial, for reasonable Cause, to be made appear by Affidavit.

The Traverser did apply to put off the Trial on the following Affidavit, sworn the 10th of *November*, 1744.

The King  
against  
*Mary Heath*. } **T**HE Traverser, *MARY HEATH*, came this Day before me and made Oath, That *James Annesley* having, as Deponent heard and believes, brought an Ejectment in the Exchequer for Recovery of the Possession of Part of the Estate, whereof *Arthur* late Earl of *Anglesey* died seized in this Kingdom; and the Right Honourable *Richard*, Earl of *Anglesey* having taken Defence to said Ejectment, the same came to be tried at the Bar of said Court in last Michaelmas-Term; which Trial continued and was adjourned from Day to Day for upwards of ten Days, on which Trial Deponent was produced and examined as a Witness on Behalf of said Earl. That Deponent is well informed and verily believes, that on said Trial the only Point tried was, whether said *James Annesley* was the Son of *Arthur* late Lord *Altham* by his Wife *Mary* Lady *Altham*. That she is well assured and believes, that Examinations were laid before the Grand-Jury at last Commission of *Oyer and Terminer* for the County of *Dublin* for Perjury, alleged to be committed by Deponent on said Trial, and that a Bill of Indictment was found on said Examinations against Deponent the 24th Day of *October* last, and not before, as she is informed and verily believes. Saith, she is informed and believes, the Points in said Indictment, and on

which Deponent is Indicted, are relative to said Lady *Altham*'s having a Child by said Lord *Altham*, and in some Measure the same as that tried in the Exchequer as aforesaid. Saith, she is informed and believes, that a Suit was instituted in the Chancery of *England* by said *James Annesley* for Recovery of the *English* Estate, whereof said *Arthur* Earl of *Anglesey* died seized, or Part thereof, and has been informed and believes, said *James* has also filed a Bill in the Chancery of *Ireland* for Recovery of the said *Irish* Estate, whereof the said *Arthur* died seized, or Part thereof; and saith, that a Commission is now speeding at *Wexford* in said *English* Cause, and that the same was opened before said Indictment was found, and Deponent was examined on Behalf of the said Earl upon said Commission, and the Examination of said Commission is still going on, as Deponent believes. Saith, she is informed and verily believes, that the Title of the several Estates is the same, and that the Point to be determined as to said Estates between said *James Annesley* and said Earl of *Anglesey* and the other Parties interested, is, whether said *James* is the Son of said late Lord *Altham* by his said Lady. Saith, she is advised and believes, the same Evidence, in a great Measure, will be necessary for Deponent's Defence on the Trial of said Indictment, and in the Defence of said Suits, and therefore Deponent



ponent believes (being so advised) that preparing for Deponent's Defence on said Indictment, will take a considerable Time, there being many Witnesses, necessary for Deponent's Defence, living in different Parts of this Kingdom as well as in *England*. Saith, there are several Persons, whose Place of Residence is in *London* and other Places in *England*, and who are now there, as she verily believes, who are material Witnesses for Deponent's Defence on said Indictment, and without whose Testimony Deponent can't with Safety stand her Trial, and whom Deponent could not possibly get from *England* since said Bill of Indictment was found, and in particular, Mrs. *Mary Judd* of the County of *Essex*, and Mrs. *Sarah Bonner* of *London*, Mrs. *Sarah Heath* of *London* and *Thomas Rolph* of *Marybone* in *England*, and several other Persons, who reside in *England*, are very material Witnesses for Deponent upon her said Trial, and whom Deponent could not possibly get over to attend this Term, and whom Deponent believes and doubts not but she can get to attend the next Term. That there are several Persons in the Counties of *Cork*, *Wexford*, and *Galway*, who are very material Witnesses for Deponent; several of whom are wrote to, but they cannot, as Deponent is informed and believes, attend this present Term. Sayeth, that *Sarah Weedon*, Widow of *John Weedon*, who was Coachman to Lord *Altham*, (at the Time when the said *James Annesley* alledges he was born) and lived at that Time near *Dunmaine-house* (where said *James Annesley* alledges he was born) and was frequently at *Dunmaine-house*; now lives at Colonel *John Blakeney's* at *Abbott* in the County of *Galway*, which, as Deponent is informed and believes, is *Seventy* Miles from *Dublin*, and is a most material Witness for Deponent; and Deponent having caused Application to be made to the said *Sarah*, is informed and believes, she is so infirm, that she cannot travel without a Carriage, and therefore is not come up to *Dublin*, tho' Deponent has good Reason to believe and doubts not but she will be able to get her to attend the next Term. Sayeth, she is credibly informed and verily believes, that *James Annesley* and those concerned for him (who Deponent believes are the Persons that carry on the Prosecution against Deponent) are so sensible that said *Sarah* is a material Witness for Deponent, that they, or some of them, have lately, by Bribes and otherwise, attempted to seduce and carry off the said *Sarah* from said Colonel *Blakeney's*, and had a Horse and Pillion for that Purpose at *Abbott*, but were discovered and prevented by said Colonel *Blakeney's* Means. That *Anthony Dyer*, now of *Cork*, was Gentleman to said Lord *Altham*, when he dwelt at *Dunmaine* aforesaid, and is a very material Witness for Deponent upon said Trial, who Deponent can't get to attend this Term, but believes she will be able to get him to attend next Term. Sayeth, that from the Number of Witnesses, material for her to produce upon said Trial, and the different Parts of this Kingdom and *Great-Britain*, where they reside, it will not be possible for Deponent to get them to attend this Term, nor can Deponent be in any sort prepared to defend herself in a proper Manner, unless reasonable time be given her; and is satisfied in her Conscience, it is not, nor was it in her

Power, or in the Power of any other Person, to get the several Witnesses, material for her Defence, to attend this Term, but believes and doubts not but she will be able to get them to attend the next Term.

In Order to oppose this Motion, the following Affidavit was sworn the 13th of *November* 1744.

The King } DANIEL MAC KERCHER,  
against. } Esq; came this Day before me  
Mary Heath. } and made Oath, That the Traverser,  
*Mary Heath*, was, as he believes apprehended in *August* last upon a Warrant, granted against her for wilful and corrupt Perjury; and sayeth, that in Expectation of said *Heath's* Trial at the last sitting of the Court of *Oyer and Terminer*, held for the County of *Dublin*, on the 24th of *October* last, Deponent sent to *England* and to several Counties of this Kingdom for several Witnesses, to be produced and examined against said *Heath*; and sayeth, a great many of said Witnesses, came to *Dublin* from *England* and several remote Counties of *Ireland*, to be examined on Behalf of his Majesty on said Trial; but the Indictment being removed by Writ of *Certiorari* to the Court of *King's Bench*, Deponent sent many of said Witnesses, who live in this Kingdom, out of Town; and such other of said Witnesses, as are old and infirm and live in remote parts, and also the Witnesses, who came from *England*, Deponent hath kept in *Dublin* at considerable Expences. Sayeth, he was at very considerable Expence in bringing said Witnesses to *Dublin*, in Expectation that said *Heath's* Trial would have come on at said Sitting of the said Commission. Sayeth, that the Trial of said *Heath* being appointed to come on, on *Wednesday* the 14th of *November* Instant, Deponent hath, since the said Day for Trial was appointed, sent to several Counties of this Kingdom for several of said Witnesses, that were before in *Dublin*, to give Evidence on Behalf of his Majesty against said *Heath* upon said Trial; and saith, some of said Witnesses, who are material to be examined on said Trial against her, have a Call to *England* upon Business of great Importance; and others, who are very material Evidences against her, are very old and infirm; so that Deponent sayeth, if the Trial of said *Heath* should be put off from this Term to next, it will put the Prosecutors to very considerable Expences and Hardships; and, not only so, but, it will be highly inconvenient to and almost impossible for several other Witnesses (who are obliged as soon as they can to go for *England*) to attend in this Kingdom next *Hilary* Term, without neglecting Affairs of the greatest Consequence; and several other very material Witnesses, who are old and infirm, may dye, or become so weak and infirm, as not to be able to attend next Term. Sayeth, that the Application on Behalf of said *Heath* to put off her Trial to next Term is intended, as Deponent verily believes, not only to put the Prosecutors to great Expence, but also for other Ends and Purposes, and to avoid or postpone, as much as she can, her being tried. Says, if said *Heath's* Trial should be put off to next Term, she will not, nor can she be so effectually prosecuted, as she would now be, in regard that several material Witnesses against her will be under a Necessity of being  
next



next Term in *England*, and said *Heath* may, for Want of the Evidence of such Witnesses, be acquitted. Whereas, if such Witnesses could, and did attend to give Evidence against her, she would be found guilty of Perjury, as Deponent verily believes. And believes said *Heath* had Time, sufficient to prepare for and have any Witnesses material for her. Sayeth, he is credibly informed and believes, said *Heath*, or any one for her, did not, since shew as apprehended for said Perjury, issue any Summons or Subpenas for any Witnesses to come to attend and give Evidence on her Trial; nor has she, or any other Person on her Behalf, as Deponent believes, since she was taken for said Perjury, used any Means to have any Witnesses ready to appear for her, in Expectation and upon an Assurance given her, as Deponent is informed and believes, by some of her Managers, that said Trial would be put off. Doth not know or believe, that *Mary Judd*, *Sarah Bonner* and *Sarah Heath*, mentioned in the Affidavit of said *Mary Heath*, or any of them, were examined on the Trial in Ejectment, had in the Exchequer last *Michaelmas Term*, between the Lessee of *James Annesley* and the Earl of *Anglesey*. Sayeth, he doth not know or believe, that *Sarah Weedon*, mentioned in said *Heath's* Affidavit, is a material Witness for her; but, on the contrary, is informed, said *Sarah* is a material Witness against her. Saith, Deponent being informed said *Sarah Weedon* was a material Witness against said *Mary*, he, for that Reason and for no other Ends, sent *Edward Weedon*, Son of said *Sarah*, to the County of *Galway*, to Colonel *John Blakeney's*, where Deponent was informed said *Sarah* was, in order to bring her to *Dublin*, to give Evidence against said *Mary*; and said *Edward*, on his Return, informed Deponent, she was by Force detained in the House of the said *Blakeney*, and that (tho' she declared her Willingness to give her Testimony) said *Blakeney* would not permit her to go, but forceably kept her in his House, notwithstanding her Endeavours to come away. Whereupon, Deponent caused a Subpena to issue, requiring said *Sarah* to attend to give Evidence on the Trial of said *Mary*, which Deponent sent to be served on said *Sarah*, to oblige her to attend, pursuant to such Subpena. Saith, Deponent intended, before he sent said Subpena to be served on said *Sarah*, to apply to this Court for a Writ of *Habeas Corpus* for her, she being confined and detained by Force in the House of said *Blakeney*, as Deponent was informed; and accordingly, said, *Edward* and *John Weedon*, another Son of said *Sarah's*, made severally an Affidavit, as Deponent believes, on the *Eighth* of *November* instant, in Order to ground a Motion thereon for a Writ of *Habeas Corpus* for said *Sarah*; which Motion Deponent would have made, but Deponent afterwards thought it more proper to try whether by Service of a Subpena, said *Sarah* would be permitted to come to *Dublin*, to give Evidence on the Trial, Deponent believing, said *Blakeney* would not oppose an Obedience to said Subpena. Saith, the Person sent by Deponent to serve said Subpena is not yet returned, that Deponent knows or believes. Denies, he, or said *James Annesley*, or any other concerned for him, or who carry on the Prosecution against said *Mary Heath*, to Deponent's Knowledge or

Belief, have lately, or at any Time, by Bribes or otherwise, attempted to seduce or carry off said *Sarah* from said *Blakeney's*, to prevent her from being examined on the Trial of said *Mary*, as is untruly insinuated by the Affidavit of said *Heath*; nor doth Deponent know or believe, nor does said *James Annesley*, or any other Person concerned for him, as Deponent believes, know or believe, said *Sarah* is a material Witness for said *Heath* upon her Trial; verily believes, said *Sarah* is detained in the House of said *Blakeney*, meerly because she is a material Witness against said *Mary*, and to prevent her from being produced as a Witness; and Deponent is convinced, said *Mary* could, if she pleased, have had said *Sarah Weedon* to attend on the *Fourteenth* instant upon her Tryal. Saith, Deponent's Intention to send for and bring said *Sarah* to *Dublin*, was to give Evidence against said *Mary*, and not to prevent her giving Evidence, as is falsely insinuated by said *Mary's* Affidavit; and denies he, by himself, or any other, attempted to bribe said *Sarah*, nor did Deponent, since he embarked in the Affairs of the said *James*, attempt to bribe, or by any unfair or unlawful Means, to seduce or prevail upon any Person to give Evidence in Behalf of said *James*; nor doth Deponent know or believe, that any Attempts of Eribery or other unlawful or unfair Means were made Use of (by said *James Annesley* or any Person concerned for him) to give Evidence for him in the Suit between him and said Earl of *Anglesey*, or to stifle or prevent the Evidence of any Person, who could give Evidence for said Earl or for said *Heath*; but, on the contrary, Deponent hath all along, since he engaged in the Affairs of said *James Annesley*, carried on the same with all legal and fair Ways and Methods, and Deponent is determined so to do in the Conduct of said *James's* Affairs. Believes and is convinced by very sufficient Proofs, that Deponent has had of the same, That many unfair and illegal Endeavours and Attempts have been made Use of by Persons concerned for said Earl and said *Mary Heath*, not only to bribe and corrupt Witnesses, but also, by very unfair and illegal Means, to intimidate and seduce several Persons from giving Testimony on Behalf of said *James*, and to have said *Mary* acquitted of the Perjury, of which she is indicted.

On the *Thirteenth* of *November* the Matter was debated by Council, and the Court were of Opinion, that the Trial ought to be put off. And afterwards, by Consent of all Parties, the Day of Trial was appointed to be, *Monday* the *Fourth* Day of *February* 1744.

On the *Twentieth* of *November* 1744, the Council for the Prosecutors moved the Court for an Attachment against Colonel *John Blakeney*, for his Contempt of the Court, in not permitting *Sarah Weedon* to attend the Court on the *fourteenth* Day of *November*, in obedience to a Subpena, with which she was served, and grounded this Motion on the following Affidavits.

Thomas Carter, Esq; } JAMES MAGRATH of  
Attorney and Coroner } the City of *Dublin*,  
of the Lord the King } came this Day before  
against } me and made Oath,  
Mary Heath. } That on the *Thirteenth*  
Day of this Instant *November* this Deponent accompanied



accompanied *Andrew Ross* of *Marystown* in the County of *Roscommon*, Gentleman, to *Abbott* in the County of *Galway*, where *John Blakeney* Esq; lives, the said *Andrew Ross* being employed to serve *Sarah Weedon* with a *Subpæna*, commanding her to attend in his Majesty's Court of King's Bench on the *Fourteenth* Day of this Instant *November*, to give Evidence in this Cause. And this Deponent saith, that the said *Andrew Ross* did, as this Deponent believes, on the *Thirteenth* Day of *November* serve the said *Sarah Weedon* with the said *Subpæna*, and this Deponent having stood at a little Distance from the said *John Blakeney*'s House, to wait for the said *Andrew Ross*, the said *Andrew Ross*, in some short time after he went into the said House, returned to Deponent, and desired this Deponent to get off as fast as he could, and that when the said *Andrew Ross* turned the Corner of the Avenue he would change Horses with Deponent. That Deponent thereupon believing the said *John Blakeney* intended to have this Deponent very ill treated for coming with the said *Andrew Ross* to have the said *Sarah Weedon* served with the said *Subpæna*, this Deponent therefore rode off, and at some Distance from the said House exchange'd Horses with the said *Andrew Ross*, and, in some time, Deponent looking behind, perceived several Persons on Horseback pursuing, as this Deponent apprehended, the said *Andrew Ross* and this Deponent; and therefore this Deponent rode forward as fast as his Horse could carry him, and by that Means Deponent escaped any Insult or Danger intended him; and this Deponent verily believes the said Persons were sent in pursuit of this Deponent and the said *Andrew Ross* by the said *John Blakeney*, with Intent to treat them very ill, and to prevent their carrying the said *Sarah Weedon* to *Dublin*, to give Evidence against the said *Mary Heath*, as this Deponent verily believes.

Thomas Carter, Esq;  
Attorney and Coroner  
of the Lord the King  
against  
Mary Heath.

WHEREAS there issued forth of his Majesty's Court of King's-Bench in Ireland, and under the Seal thereof, his Majesty's Writ of *Subpæna* in this Cause, bearing Date the *Eighth* Day of *November* Instant, directed to *Sarah Weedon*, commanding her to be in the said Court of King's-Bench on Wednesday the *Fourteenth* Day of *November* Instant, to testify the Truth concerning a certain Trial between *Thomas Carter*, Esq; Attorney and Coroner of the Lord the King and *Mary Heath*. Now, *Andrew Ross* of *Mary's-Town* in the County of *Roscommon*, Gentleman, came this Day before me and made Oath, that on the *Thirteenth* Day of this Instant *November*, in the Forenoon of said Day, this Deponent personally served the said *Sarah Weedon* with the said *Subpæna*, by delivering unto her, at the House of *John Blakeney*, Esq; at *Abbott* in the County of *Galway*, a true Copy of the said *Subpæna*, and at the same time gave the said *Sarah Weedon* a *British* Shilling in Silver, and shewed her the said original *Subpæna* under Seal as aforesaid; and this Deponent saith, that before this Deponent served the said *Sarah Weedon*, as aforesaid; this Deponent as he was going towards the House of the said *John Blakeney*, met the said *John Blakeney*, with a Gun in his Hand, coming towards Deponent, and Deponent told the said *John Blakeney*, that Deponent

had a Message to deliver, which Deponent said he did not think proper to deliver until Deponent had acquainted the said *John Blakeney* therewith; and, upon the said *John Blakeney*'s asking what it was, Deponent told him, that Deponent had a *Subpæna* to serve upon *Sarah Weedon*, and Deponent having shewn and produced to the said *John Blakeney* a Copy of the said *Subpæna*, the said *John Blakeney* having taken and read it, said, the said *Sarah Weedon* could not be there (meaning, as Deponent believes, in the said Court of King's-Bench) in that time; upon which, Deponent said, he had so provided for her, that Deponent would engage she should be there the next Day in Time: Whereupon, the said *Blakeney* swearing, said, he would take care the said *Sarah Weedon* should not be there the next Day. That Deponent thereupon begged he might see the said *Sarah Weedon*, to which the said *John Blakeney* in Answer, said, with an Oath, that Deponent might see her, but that he, this Deponent, should not take her away; but this Deponent saith, that he, this Deponent, went into the said *John Blakeney*'s House, and there served the said *Sarah Weedon* with the said *Subpæna*, as aforesaid. And upon this Deponent's serving the said *Sarah Weedon*, as aforesaid, she said, she thought she was to have been sent for a *Thursday*; upon which, Deponent said, she, the said *Sarah Weedon*, might then come, for it wou'd be Time enough, and that Deponent would take her very safe to *Dublin*. That thereupon, the said *John Blakeney*, who was present at the said Service and Discourse between the said *Sarah Weedon* and Deponent, said, that she, the said *Sarah Weedon* should go, and that he would take care to send her in a proper Time. And this Deponent saith, that the said *John Blakeney* having behaved and expressed himself in a very angry Manner, and being greatly displeased, as this Deponent understood by him, and as this Deponent verily believes, that Deponent had come on the aforesaid Errand to serve the said *Subpæna* and the said *John Blakeney* having declared, with Protections and Oaths, that he would send *James Magrath* to *Galway* Goal, and that he would let the said *Magrath* know, that there were Courts in the Country as well as in *Dublin*, the said *John Blakeney* having seen the said *James Magrath* with Deponent, when Deponent first met the said *John Blakeney*, as aforesaid; this Deponent was greatly affrighted, and finding it to no purpose to expect to bring the said *Sarah Weedon* to *Dublin*, to give Evidence in pursuance of the said *Subpæna*, by Means of the Obstruction and Opposition of the said *John Blakeney*, tho' this Deponent verily believes, were it not for such Opposition of the said *John Blakeney*, that the said *Sarah Weedon* would readily have come with this Deponent in Obedience to the said *Subpæna*. This Deponent therefore went away, and when Deponent came up to the said *James Magrath*, who waited for Deponent at a little Distance from the said *John Blakeney*'s House, this Deponent apprehending from the Declarations and Threats of the said *John Blakeney* towards the said *James Magrath*, that it would be most prudent and safe for the said *James Magrath* to get off as fast as he could, this Deponent therefore desir'd the said *James Magrath* to make the best of his Way; and that when Deponent turned the Corner of the Avenue, Deponent would change Horses with the

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said



said *James Magrath*, Deponent believing the Horse that Deponent rode to be better than that rode by the said *Magrath*; and accordingly the said *James Magrath* and Deponent rode off, and Deponent changed Horses with the said *Magrath* when they got some Distance from the said *John Blakeney's* House. And Deponent saith, that when the said *Magrath* and Deponent had gone forward for some time, this Deponent, looking behind him, perceived several Persons on Horseback pursuing, as this Deponent apprehended, the said *James Magrath* and this Deponent, which gave this Deponent the greater Reason to fear some Danger, and thereupon Deponent pushed forward as fast as his Horse could carry him, and by that Means escaped any Danger or Insult that might be intended by the said Persons, who, Deponent verily believes, were sent in Pursuit of this Deponent, or of the said *James Magrath*, by the said *John Blakeney*. And this Deponent saith, that by the aforesaid Means of said *John Blakeney* this Deponent could not carry the said *Sarah Weedon* to *Dublin*, to give Evidence in Pursuance of the said *Subpœna*; and this Deponent verily believes, the aforesaid Opposition and Behaviour of the said *John Blakeney* was merely to prevent the said *Sarah Weedon's* coming to *Dublin* to give Evidence against the said *Mary Heath*.

But the Court made no Rule.

On the *Twenty first* Day of *November* 1744, the Council for the Prosecutors moved the Court for a Writ of *Habeas Corpus* to be directed to Colonel *John Blakeney*, requiring him to have the Body of *Sarah Weedon* before the Court, and grounded this Motion on the following Affidavits. Sworn the 8th. of *November*.

The King  
against  
John Blakeney, Esq; } **JOHN WEEDON** of the  
City of *Dublin* came this  
Day before me and made  
Oath, that *Sarah Weedon*,  
this Deponent's Mother, is now detained against  
her Will, and without any legal Process at Law  
or Warrant against her, at the House of *John Blakeney*, Esq; at *Abbort* in the County of *Galway*; and this Deponent saith, that on *Tuesday* the *Thirtieth* Day of *October* last this Deponent was at the said House of the said *John Blakeney*, with Deponent's said Mother, in order to carry her away from the said *John Blakeney*, but this Deponent could not. And this Deponent further deposeth, that in the Evening of the said *Thirtieth* Day of *October* this Deponent went with his Brother *Edward Weedon* to the said House of the said *John Blakeney*, in order, if they possibly could, to carry their said Mother away, but the Gates of the said *John Blakeney's* Yard and the Doors of his House having been shut and locked, this Deponent and his said Brother knocked at the Gate, and the said *Sarah Weedon* looking out of a Window up one Pair of Stairs in the said House, desired this Deponent and his said Brother to go off as fast as they could, for that the Doors were locked upon her and she could not get out; and that if this Deponent and his said Brother did not immediately go away, they would be knock'd in the head. Whereupon this Deponent and his said Brother went away, being afraid of Danger if they staid any longer, and this Deponent verily believes, the said *John Blakeney* will,

for some unlawful Ends and Purposes, continue to detain the said *Sarah Weedon* against her Will and by Force and Duress, and without any Authority for so doing.

The King  
against  
John Blakeney, Esq; } **EDWARD WEEDON**  
of the *Gravelly Hill* in  
the County of *Carlow*  
came this Day before me  
and made Oath, that *Sarah Weedon*, this Deponent's Mother, is now detain'd against her Will, and without any legal Process at Law or Warrant against her, at the House of *John Blakeney*, Esq; at *Abbort* near *Castle-Blakeney* in the County of *Galway*. And this Deponent further deposeth, that in the Evening of the *Thirtieth* Day of *October* last this Deponent went, with his Brother *John Weedon*, to the House of the said *John Blakeney*, in order, if they possibly could, to carry their said Mother away; but the Gates of the said *John Blakeney's* Yard and the Doors of his House having been shut and locked, this Deponent and his said Brother knocked at the Gate, and the said *Sarah Weedon* looking out of the Window up one pair of Stairs in the said House, desired this Deponent and his said Brother to go off as fast as they could, for that the Doors were locked upon her and she could not get out; and that if this Deponent and his said Brother did not immediately go away, they would be knock'd in the Head. Whereupon, this Deponent and his said Brother went away, being afraid of Danger if they stay'd any longer. And this Deponent verily believes, the said *John Blakeney* will, for some unlawful Ends and Purposes, continue to detain the said *Sarah Weedon* against her Will and by Force and Duress, and without any Authority for so doing.

Mr. *Thomas Blakeney*, Attorney, informed the Court, That to his knowledge the material Facts mentioned in the foregoing Affidavits were false; and offered that Colonel *Blakeney* should answer those Affidavits, if those concerned for the Prosecutors would agree he should do so at Peril of Costs, and would undertake to pay the Costs. This Offer Mr. *Mac Kercher*, then present in Court, declined. Mr. *Blakeney* then desired, that *Edward* and *John Weedon*, who made the Affidavits, should be ordered to attend, and undertook to falsify their Affidavits by Affidavits. And accordingly, the Court put off the Motion till next Day, and ordered, the said *Edward* and *John Weedon* to attend then, and Mr. *Blakeney* to make Affidavit in the mean time.

On the *twenty second* Day of *November* 1744, the above Affidavits of *John* and *Edward Weedon* were read, and the following Affidavits of Mr. *Thomas Blakeney* and *Edward Kilkelly* were produced and read.

The King  
against  
John Blakeney, Esq; } **THOMAS BLAKENEY**,  
Gent. maketh Oath, that he  
very well knows *John Blakeney* of  
*Abbort* in the County of *Galway*, Esq; that he is this Deponent's near Relation, and lives within two Miles of this Deponent's Place of Residence in said County, and that he, his Family, and this Deponent's Wife and Family frequently visit each other. Deposeth, that on the Day but one after a Verdict was given in the Court of *Exchequer* on a Trial, which was had between the Lessee of *James Annesley* Esq; and the Earl of *Anglesey*, this Deponent



ponent received a Letter from this Deponent's Wife, wherein she mentioned that old Mrs. *Weedon*, who then liv'd at *Abbott*, said, that she liv'd for many Years with Lord and Lady *Altham* and that said Lady never had a Child while in *Ireland*; but that one *Juggy Landy* had a Child called *James Annesley*, and that Lord *Altham* was supposed or deemed to be his Father, or to that Purpose; which Letter Deponent shewed to several Gentlemen, and was the first Account Deponent ever had of said Mrs. *Weedon*'s knowing any thing of that Matter, or of her living in said Lord *Altham*'s Family. Deposeth, that sometime about last *Christmas* Holidays this Deponent was at *Abbott* aforesaid, and there saw the said Mrs. *Weedon*, and asked her, whether she lived with Lord and Lady *Altham*, and if said Lady ever had a Son? and Mrs. *Weedon* declared that said Lady never had any Child whatsoever since her coming into *Ireland*, to the time that she and Lord *Altham* had separated. That Deponent asked said Mrs. *Weedon* if she knew *Jemmy Annesley*, or whose Son he was; That said Mrs. *Weedon* said she did know *Jemmy Annesley*, and that he was the Son of *Juggy Landy*, and not of Lady *Altham*; wherefore Deponent always did and does believe, that said Mrs. *Weedon* is a material Evidence for the Earl of *Anglesey*, and not for the said *James Annesley*. Deponent further deposeth, that the said Mrs. *Weedon* has been for several Years past Servant to the said *John Blakeney* and lived with him at *Abbott* aforesaid, and deposeth, that on *Saturday* the third Day of *November* instant this Deponent called upon the said *John Blakeney* at *Abbott* in this Deponent's way to *Dublin*, and there saw the said Mrs. *Weedon*, and deposeth that she was so far from being confined, or under any manner of Restraint, that she was at full Liberty, that the Doors of the House were open, and that she might have gone in or out, or to any Place she thought proper. And deposeth, that Deponent was at the same time informed by the said *John Blakeney* and his Lady, which he believes to be true, that at twelve o'Clock at Night the *Tuesday* before, some People came about his House, and that they had taken or stolen away his Servant *John Weedon*, and that he also believed, they also intended to take away the said Mrs. *Weedon*, for that he was informed they had a Horse with a Pillion, and that said *John Weedon* rode or travelled on the said Pillion. Deposeth, that this Deponent met said Mrs. *Weedon* in the common Hall of said House at *Abbott* on the *Saturday* aforesaid, and that she begged of this Deponent to enquire for her Son *Jonny*, as she called him, as soon as Deponent should arrive in *Dublin*, and to send him home, for that she was very sure he would return to his Service, if he got but once sober, but that she very much feared they would keep him always drunk, and seemed greatly troubled at his being taken away. That Deponent promised to enquire for him, the said *John*, and to tell him what she desired. Deposeth, that on *Thursday* the eighth day of *November* instant the said *John Weedon*, together with Deponent's Servant, called upon this Deponent at a House, where Deponent was at Dinner in *Dublin*; that Deponent told said *John Weedon*, he was sorry he had quitted his Service without his Master's leave, and also told him what his Mother said to this Deponent as aforesaid, and that she expected he would go back. Whereupon the

said *John* said, he never would, for that he was to be much better provided for. And Deponent having asked him by whom? He, the said *Weedon*, said, it was by the young Earl of *Anglesey*. Whereupon Deponent smiled and said, he was not Earl as yet. That said *John* thereupon said, that whether he was to be Earl, or not, he would provide for him, and at the same time wished that his Mother would come up, for that, if she did, she would be much happier, and have much easier Bread than she had where she lived. Deposeth, that he very well knows that the said *John Weedon* has been for several Years past Servant to the said *John Blakeney*, and lived with him in his House at *Abbott* aforesaid, until he quitted him in the Night of the thirtieth of *October* last; and Deponent verily believes, the said Mrs. *Weedon* never was, nor is she now, as this Deponent verily believes, under any manner of Restraint, or in any sort confined by the said *John Blakeney*, or any other Person; but verily believes, she is at full Liberty to go where she thinks proper. And saith, he knows that the said Mrs. *Weedon* has been applied to, on behalf of the Earl of *Anglesey*, to attend at *Wexford*, there to be examined as a Witness on his Lordship's behalf, on a Commission, which Deponent believes, is, and has been speeding there for some time, in a Cause depending in the High Court of *Chancery* in *England*, wherein the said *James Annesley* is Plaintiff, and the said Earl of *Anglesey* is Defendant.

The King } EDWARD KILKELLY of  
against } *Lis* in the County of  
*John Blakeney*. } *Galway*, *Cooper*, came this Day  
before me and made Oath, that  
on *Friday* sevennight this Deponent was at the Defendant's House at *Abbott* in the County of *Galway*, and this Deponent saith, that as he was going to the said House he saw Mrs. *Sarah Weedon*, who is, and for a considerable time hath been, Servant to the Defendant, and whom Deponent knows very well, without the Gates of the said Defendant's Yard, as if she was returning from the Place where the Cows were milking, and had, as Deponent apprehended and believed, some Milk in her hands carrying into the House. And this Deponent saith, she the said *Sarah Weedon* was alone and not in any sort of Restraint or Confinement; and Deponent afterwards, on the same Day, saw the said *Sarah Weedon* going about her Business in the said House, and in no Restraint or Confinement, and Deponent conversed with the said *Sarah* at that time about several Matters, and she did not mention any sort of Restraint or Confinement, but told Deponent her son *John Weedon* was gone away and seemed much concerned at it. And this Deponent is very sure the said *Sarah* is not, nor was not at any Time put into any sort of Restraint or Durety by the Defendant.

Court.] Call *John Weedon*.

JOHN WEEDON:

Mr. *Harward* offers to speak.

Court.] We have nothing to do with the Birth of *James Annesley*; here is Affidavit against Affidavit,



Affidavit, we must hear which of these Affidavits is true. We are imposed on by one Affidavit or other; the Honour of the Court is concern'd, and therefore, before we do any thing, we'll hear what *John Weedon* has to say.

Mr. Harward.] With humble Submission, I conceive the hearing of us after this Person is Examined is not a proper Time; this is now my Time to offer what I have to say; I shall have no Occasion to speak after the Examination is ended, and therefore beg leave to say a few Words now, which are, that if this Person is to be Examined, I do apprehend it must be on the foot of some supposed Transgression that he hath committed.

Court.] No, Sir, it is to discover the Truth. We'll have no concealing of the Truth in this Court.

Swear him.

Mr. Harward.] I don't oppose your Lordship's Right to Examine this Witness; but—

Court.] Read the Affidavit to him.

JOHN WEEDON is sworn.

Court.] You are now to declare the Truth, and nothing but the Truth, and you are now likewise to declare the whole Truth. You are not oblig'd to say any thing to criminate yourself.

Court.] Is your Name *John Weedon*?

John Weedon.] Yes, my Lord.

Q. Are you the Son of *Sarah Weedon*?

A. Yes, I am, my Lord.

Q. Did you live with Colonel *John Blakeney*?

A. I did live with him.

Q. Is *Sarah Weedon* your Mother?

A. She is.

Q. When did you see her last?

A. I saw her the *Thirtieth* of *October* in the House of my Master.

Q. Have you a Discharge?

A. I have not.

Q. When did you leave your Master?

A. I left him the next Day, the *Thirty-first* of *October*.

Q. Why did you leave him?

A. I was afraid to appear to him, because that I was with my Brother.

Q. What Reason had you to fear appearing before him?

A. For fear he'd use me ill.

Q. Did he ever use you ill?

A. He never did.

Q. How came you then to be afraid? Who perswaded you to leave your Master?

A. No body at all; I came away on my own Accord.

Q. Did you desire your Mother to leave him before you came away?

A. I did.

Q. And what did she say to you?

A. She said, she could not.

Q. For what Reason did she say she could not?

A. I could not find out the Reason.

Q. Did she tell you she durst not?

A. She said, that she could not.

Q. Did she tell you that her Master kept her there against her Will?

A. She did not tell me so.

Q. What Time of the Evening was it that you went to Colonel *Blakeney's* the first Time?

A. It was between *seven* and *eight* o' Clock.

Q. Was your Brother with you?

A. My Brother came along with me.

Q. What Time did your Mother speak to you out of the Window?

A. About half an Hour after *Eight*.

Q. What Time did you come away?

A. I came away by Day light.

Q. What! the next Morning?

A. The next Morning.

Q. What Time? Was the Family up?

A. They were up, my Lord.

Q. Did you lye in the House?

A. I did not lye in my Master's House, because I could not get in.

Q. Where did you meet your Brother?

A. I was sent from home to——— for a Hound of my Master's, I went and got the Hound, and came to take a Mug of Ale at *Glentane*, and there I met my Brother; and my Brother said, I'm come for my Mother, and I said, I would get her out of the House, and we went together, and when we came there, we found the Doors and the Gate lock'd, and she came to the Window and said, that she could not go out; with that I was afraid of my Master, and a Boy came running out and said, my Master was coming with a Whip, and I made off as fast as I could.

Q. What Time was this?

A. It was about *eight* o' Clock.

Q. Did you find the Gate fastned?

A. I did, my Lord.

Q. What did your Mother say to you?

A. She said, she could not go with us, and, says she, go away, about your Business, or you'll be knock'd o' the Head.

Q. Was your Brother there?

A. He was.

Q. Was he a Servant there?

A. No, but came to see whether my Mother was alive or not.

Q. Was your Mother a Servant there?

A. She was Servant two Years last *Michaelmas*.

Q. Was she a Servant at this Time?

A. She was not at that Time.

Q. She said that she could not go?

A. She did, my Lord.

Q. For what Reason?

A. I can't tell.

Q. Did she say, that she would not go?

A. She did not say that she would not.

Q. Did you and your Brother desire Mr. *Blakeney* to let her go?

A. No, I was afraid to go to him.

Q. Did your Brother?

A. My Brother did not.

Q. Where was it that you proposed to carry her?

A. To *Ballynasloe*, to one *Bulkley's*.

Q. Where further?

A. We proposed to bring her to *Dublin*.

Q. Where?

A. To Mr. *Annesley's*.

Q. Are you in Mr. *Annesley's* Service?

A. I am not.

Q. Are you in any body's Service?

A. I am in no body's Service.

Court.] Hear your Affidavit read.

Clerk



Clerk of the Crown.] Reads the Affidavit.  
 Court.] Does he write his Name?  
 Clerk of the Crown.] No.  
 Court.] Did your Mother ever tell you that she would come away?  
 A. She did not.  
 Q. Why did you ask her to come away in the Night?  
 A. Because my Brother came for her.  
 Q. Did she ever tell you and your Brother that she was compell'd to stay where she was?  
 A. She did not tell us that she was compell'd to stay.  
 Q. Do you understand your Affidavit? How came you to swear in your Affidavit that she was detain'd against her Will; and now you say she was not? What Religion are you of?  
 A. A Protestant.  
 Q. How came you to swear that positive Affidavit? Did any Body read it to you?  
 A. Yes, an Attorney, *Robert Reynell*.  
 Q. Who is *Robert Reynell*?  
 Mr. Nelson.] He is my Clerk, my Lord, he read it to him.  
 Q. Did your Mother tell you she was a Prisoner?  
 A. No, but she told me she was afraid of her Life.  
 Q. Are you sure of that?  
 A. I am, my Lord.  
 Q. Of whom was she afraid?  
 A. She was afraid of my Lord *Anglesey*, that she would be murder'd by him.  
 Q. Was my Lord *Anglesey* ever in that Country?  
 A. He never was.  
 Q. Why should she run from her Master's House without Wages or Discharge, because she was afraid of Lord *Anglesey*, is he a Person of such Authority and Power over Colonel *Blakeney's* Servants, as to terrify them from their Master's Service?  
 A. I can't tell that, my Lord.  
 Q. Was she discharged at that Time?  
 A. She was not.  
 Q. Was she paid her Wages.  
 A. No.  
 Q. Did she demand her Wages, to come away?  
 A. She did.  
 Q. How do you know that, was you by?  
 A. I was not, but she told me she could not get her Wages.  
 Q. Was she afraid of Colonel *Blakeney's* doing her any harm?  
 A. She was not, my Lord.  
 Q. Why did she apprehend any harm from my Lord *Anglesey*, did he send for her?  
 A. There was last Spring a Man and a Chair came to bring her to *Wexford*, from my Lord, but she was an old Woman and would not go.  
 Q. Was she summon'd, or did he send for her of himself?  
 A. He serv'd her with a Bit of Paper.  
 Q. Did he offer to Force her to go?  
 A. He did not.  
 Q. Did you ever hear that Colonel *Blakeney*, or any Body in the House forced her to stay?

A. I never did.

More of the Affidavit is read.

Q. What Time was Mr. *Blakeney's* outward Doors usually lock'd in Winter Time?  
 A. Sometimes at *Eight* or *Nine* o' Clock, and sometimes not at all.  
 Court.] Where is *Edward Weedon*?  
 Crier.] *Edward Weedon*.  
 Court.] Where does your Brother live?  
 A. He keeps in Town.  
 Q. Is he in any Service?  
 A. He is not.  
 Q. Does he follow any Trade?  
 A. He has no Trade at all.  
 Q. Did he follow nothing?  
 A. He followed a *Spade*.  
 Q. Where did you get that Horse that you went to Mr. *Blakeney's* on that Night, the *Thirtieth* of *October*?  
 A. From my Brother.  
 Q. Where did your Brother get him?  
 A. He brought him with him.  
 Q. From whence?  
 A. From *Dublin*.

EDWARD WEEDON

Court.] Are you the Son of *Sarah Weedon*, that lives with Mr. *Blakeney*?  
 Edward Weedon.] Yes.  
 Q. What time in *October* last did you go there?  
 A. The *Thirtieth*.  
 Q. What time of the Day?  
 A. In the Evening.  
 Q. What Time?  
 A. About *Seven* or *Eight* o' Clock.  
 Q. Were the Gates shut?  
 A. They were.  
 Q. Was it Dark?  
 A. It was Dark, my Lord.  
 Q. Did you see or speak to her that Night?  
 A. I did not.  
 Q. Did any Body else?  
 A. My Brother did.  
 Q. What did she say?  
 A. She desired him to go off about his Business and bring me with him, or else I'd be knock'd o' the Head, my Lord.  
 Q. Did she say she could not go?  
 A. She did, my Lord.  
 Q. For what Reason?  
 A. Because the Doors were lock'd.  
 Q. Did she say she had a Mind to go with you?  
 A. No, she said no more.  
 Q. Did you or your Brother ask her whether she would go, and what did she say?  
 A. She said no more than desired him to go off, and bring me with him, for if we stay'd there, I would be knock'd o' the Head.  
 Q. Was she kept as a Prisoner?  
 A. As far as I understand, she was.

Z

Q. How



Q. How come you to understand so ?  
 A. Because the Gates were shut.  
 Q. What Time was this ?  
 A. About *Seven* or *Eight* o' Clock.  
 Q. Were the Gates open when you came there first ?  
 A. No, they were not. My Brother went up first to bring her out, and he told her that I was there, come for her ; and she was coming out, and he came first and he thought she was following him.  
 Q. How do you know this ?  
 A. My Brother told me this.  
 Q. Is it usual for Gentlemen to shut their Gates at Night in the Country ?  
 A. It is in the Country ; my Mother said she was shut up.  
 Q. Did she say that she was shut up, or only that the Gates were shut ?  
 A. She said as this, she could not come out, and desired my Brother to go off and take me along with him, for I'd be knock'd o' the Head.  
 Q. Did you hear her speak ?  
 A. I heard her speak.  
 Q. What did you hear her say ?  
 A. I heard her bid my Brother go off and bring me with him, for I'd be knock'd o' the Head.  
 Q. Did she say nothing more ?  
 A. She said no more, but shut the Window.  
 Court.] Read the first Part of his Affidavit.  
 Clerk of the Crown.] Reads it.  
 Court.] How did your Mother know you were there ?  
 A. My Brother knock'd at the Gate.  
 Q. Did any Body come to the Gate ?  
 A. No Body, but my Mother open'd the Window.  
 Q. Was she a Servant at that time ?  
 A. She was.  
 Q. When did you see her before that time ?  
 A. I went to her before that by my self, about a *Month* or *five* Weeks before, and she ask'd me if I heard any thing concerning Mr. *Annesley* and my Lord *Anglesey* ; I told her I did ; and she said, For your Life, don't speak a Word, for you are in the midst of your Enemies here.  
 Q. Did you carry a Horse with you the 30th of *October* ?  
 A. I did, my Lord.  
 Q. Did your Mother say any thing to you more, the time that you was with her before ?  
 A. She said, I would be very desirous of seeing Mr. *Annesley*, if I was in *Dublin*.  
 Q. Whose Horse and Pillion was it that you were furnished with ?  
 A. I hired them by the way.  
 Q. Who sent you to hire them ?  
 A. I hired them by Mr. *Annesley's* Orders.  
 Q. Who gave them Orders to you ?  
 A. Mr. *Annesley* himself.  
 Q. Your Mother said no more the time you went by your self, but that you were among your Enemies there ?  
 A. No more, my Lord.  
 Q. Was she a Servant in the House ?  
 A. She was a Servant Maid in the House, and as far as I understand, she was forced.  
 Q. Who told you she was forced ?  
 A. The Doors were all lock'd.  
 Q. Were they lock'd when your Brother went here ?  
 A. They were open when my Brother came, my Brother went in.

Q. Where did you meet your Brother that Evening ?

A. At a Place call'd *Glentane*.

Q. How long did your Brother stay before he came to you again ?

A. He came out to me again in about *three Quarters of an Hour*.

Q. How soon after that, did you return ?

A. He told me that his Master followed him out with a Whip for to kill him.

Q. Did he tell you so ?

A. He told me so.

Q. Did he venture to go back afterwards ?

A. When he went back the Gates were shut, and he went round to the Backside of the House, where there was a Door and knock'd at it ; my Mother look'd out of the Window and said she could not go, and, says she, go your way and bring your Brother with you, for he'll be knock'd o' the Head.

Q. Did she tell you that she was confined or imprisoned ?

A. She did not.

Q. Are you and your Brother in any Body's Service ?

A. We are in no body's Service.

Court.] Read the Affidavit.

Clerk of the Crown.] Reads it.

Court.] How long is it since you liv'd at *Gravelly-Hill* ?

A. I left it about two Months ago.

Q. Were you a House-keeper there ?

A. I liv'd there with a Friend of mine.

Q. Can you write ?

A. No, my Lord.

Q. Nor read ?

A. No.

Q. How came you to make this Affidavit ?

A. Them that examin'd me, drew it,

Q. Who were they ?

A. Mr. *Goastrey*.

Q. Is he here ?

A. No.

Q. Did you tell him that your Mother was detain'd ?

A. I told him as thus, that the Doors were lock'd and she said she could not come.

Q. Did you tell him these Words that are in your Affidavit ?

A. I told him no more or less than what I have given on my Oath here.

TO JOHN WEEDON.

Q. Did your Mother tell you that she was confined ?

A. She did not tell me that she was confined ?

Q. Nor you don't know it ?

A. No, my Lord.

TO EDWARD WEEDON.

Q. Did your Mother tell you she was confined ?

A. She did not tell me she was confined.

The Matter was then debated by Council, after which, the Court delivered their Opinion, as follows.

LORD.



LORD CHIEF JUSTICE MARLAY.

**W**E are of Opinion, in the first Place, that no *Habeas Corpus* can be granted in this Case. A *Habeas Corpus* for the Liberty of the Subject is a Writ of Right, and may be applied for without an Affidavit of the Party, and was done in the Cases of my Lord Leigh, Sir Robert Viner and Sir Robert Howard. In the Case of Sir Robert Viner, an *Habeas Corpus* was sued for, to obtain the Liberty of a Woman confined in his House; the Woman said she was not confined by him, but chose to stay with him. But this does not appear to us at all to be the Case here, that there is the least Restraint upon Sarah Weedon; but, on the contrary, that she is at her full Liberty; for, notwithstanding these Affidavits of these Men, it does appear so. Edward Weedon of the Gravelly-Hill in the County of Carlow maketh Oath, that Sarah Weedon is now detained (sworn the 8th of November) by Colonel John Blakeney at Abbott near Castle-Blakeney in the County of Galway. John Weedon of the City of Dublin maketh Oath, that Sarah Weedon is now detained at the House of John Blakeney, Esq; at Abbott in the County of Galway; in *Terminis terminantibus* the same; both illiterate Persons, and yet both make these positive Affidavits, of her being under Restraint, when it appears she was at her full Liberty, not only before, but after these Affidavits were made. These Affidavits were made by Marksmen, and therefore the Court sent for the Person that drew the Affidavits, to know why he drew them in the manner they appear to us; for, upon the Table, these Men have declared that they do not know, nay, they cannot say they believe, that she is restrained of her Liberty. Can we then, when they have declared that their Affidavits are not true, grant the *Habeas Corpus*? By no means. Consider the Consequence of these things: By taking a Horse in a Replevin, a Man may be guilty of Felony, if a Person has a Mind to knock down every Body that stands in his way, and procures others to impose upon the Court by Affidavits in order to prevent all Opposition; in that Case the Court will exert their Authority, and punish the Persons that imposed upon them. We are of Opinion, there is not the least Colour of granting the *Habeas Corpus*; for, to whom must it be directed but to Mr. Blakeney? If Mr. Blakeney does not obey the *Habeas Corpus*, he must be attach'd; If he does, he must come to Dublin, and the Prosecutor has declined to pay the Expence of all this.

The next Point to be considered is, whether these Men could be attach'd for falsifying their Affidavits. I am amazed to hear it said, there are no Precedents of Persons being attach'd for prevarication and imposing on the Court. May be not in this Case, but in most great Causes, that have been long depending, such Things have happened. Suppose, a Man in an Affidavit to put off a Trial, should swear, that such a Bond was perfected, and he explains himself, when he comes to be Examined, that he heard such a one say so; is not he guilty in Conscience of Perjury, and ought he not to be punished for Prevarication and for the Imposition? I can give Instances, where Persons have endeavour'd by artful Affidavits to extort exorbitant Bail,

for which they have been committed by the Court.

Now, as to these two Persons, they have sworn in the most express Terms in their Affidavits every thing, which is necessary to induce the Court to grant an *Habeas Corpus*. I must own, if there was an Inducement to do this from filial Piety, I should be very tender how I committed them; but it is plain they are not induced by that Motive; What they did, they did it, that they might be employed as well as others, by Mr. Annesley, not out of Filial Piety to free their Mother, whom they knew to be at Liberty, nor is there the least Appearance that they had such a Motive. Therefore, as they have endeavour'd to impose upon the Court, and injure an innocent Person, Mr. Blakeney, I think they ought to be committed.

Mr. JUSTICE WARD.

**T**HE only thing to excuse them is their Ignorance. But, as the Matter now stands, it is plain that the Person, who drew the Affidavits, knew they were false, knew that these Men swore to a Fact they did not know to be true. Really, a Man of Business must know the Practice in drawing Affidavits, and what kind of Affidavits will serve the End proposed by them; but these Men swear further, and say, that they told him the same Story they did now: if that be true, he drew these Affidavits most falsely, he led them into Perjury, and is as guilty as they are, and should as certainly be punish'd, if we had him, but I find on Inquiry, he is not here; therefore, as we have no body else to punish, we must punish these Men, who have thus prevaricated and imposed upon the Court.

LORD CHIEF JUSTICE.

**I**T is a most wicked profligate thing in an Agent, to make an illiterate Man swear an Affidavit he knows to be false: Whether that be *Goostrey's Case* or no I wont say, because he is not here to clear himself, but it looks very like it.

MONDAY, the 4th of FEBRUARY,

**B**Eing the Day prefixed for Trial, the Court sat, Mary Heath, the Traverser, appeared, and the Jury were call'd over; but only Six Gentlemen attending, the Court directed the Sub-Sheriff and the Sheriff's Bailiffs to be call'd and examined to the Summons of the Panell.

The Council for the Traverser informed the Court, that they understood the Prosecutors had an Intention to put off the Trial, and desired, if they had, they should then make their Motion to put it off.

After this, two more of the Jury attended, and the Sheriff's Bailiffs were sworn and examined as to their summoning the Jury; when it appeared, that they had no Summons for some, had serv'd others in the City of Dublin; that some were in England and one dead.

The Council for the Prosecutor then moved, that the Trial might be put off to Friday, the 8th of February, which was opposed by the Council for the Traverser, who acquainted the Court, that they were serv'd with a Notice from the Prosecutor of a Motion to put off the Trial, and that they had filed Affidavits, and desired the Notice might be read.

Clerk



Clerk of the Crown] Reads the Notice, as follows, viz.

SIR,

Council in Behalf of his Majesty will move the Court on *Monday* Morning next, to put off the Defendant's Trial till *Friday* next; which Motion will be grounded upon Affidavits this Day filed in the proper Office, and upon the Affidavits of *Mary Heath* and of *Daniel Mac Kercher*, Esq; made in this Cause in the last Michaelmas Term, and the Nature of the Case and Reasons to be offered. Dated this *second* of *February* 1744.

The Council for the Prosecutor again moved for the Trial to be put off to *Friday*; but the Court consenting only to *Thursday*, on account, if it should be put off longer, there would not be time for Judgment that Term, both Sides agreed and the Jury were prefixed over to *Thursday* at eight o'Clock in the Forenoon.

The Council for the Traverser informed the Court, that their Witnesses were in Town at great Expence, and hoped the Council for the Prosecutor would agree to prosecute at the Day prefixed, and not then move to put it off longer. To which was replied, that they had no other Thought than to try it on *Thursday*; and would accordingly proceed to Trial, if Mr. *Mac Kercher*, the principal Manager, and some Witnesses, then at the Water Side ready to come over with him, should arrive.

THURSDAY, the 7th of FEBRUARY.

THE Court sat, *Mary Heath*, the Traverser, appeared, the Jury were call'd over and eighteen Gentlemen attended.

The Council for the Prosecutor then moved, that the Trial might be put off to the next *Easter* Term, and grounded their Motion on the following Affidavits.

The King  
against  
*Mary Heath*. } *Daniel Mac-Kercher*, Esq; as  
Page 83.

The King  
against  
*Mary Heath*. } *RICHARD NELSON* of the  
City of *Dublin*, Gent. maketh Oath, that he, this Deponent, being employed as *Agent* on Behalf of the Prosecutors, he prepared *Briefs* for Council and sent several *Subpœnas* for Witnesses to several parts of this Kingdom, to give Evidence on Behalf of his Majesty against the Traverser on her Trial, which was, as Deponent believes, appointed to be had on the 4th Day of *February* Instant. Sayeth, that by a Letter, which this Deponent lately received by Post from Mr. *Mc. Kercher*, dated *London* the 10th of *January* last, this Deponent verily believes said Mr. *Mc. Kercher* did on or about the 17th Day of *January* last leave *London*, in order to come to this Kingdom, to carry on the Prosecution against the Traverser, the said *Mc. Kercher* being one of the principal Persons concerned in carrying on said Prosecution; and verily believes, the said *Mc. Kercher*, is, and has been, at *Park-*

*gate* or *Holyhead* for some Days past, and would have been here before this time, if the Wind had served for a Passage; and this Deponent expects him in this Kingdom as soon as the Wind becomes fair for a Passage from *Holyhead* or *Parkgate*. Says, he believes, that *William Gooftrey* is a material Witness to be produced against Defendant, and believes said *Gooftrey* and others, who are Witnesses, as Deponent believes to be produced against the Traverser, are waiting with said *Mc. Kercher* at *Parkgate* or *Holyhead* for a Passage, and believes, that an effectual Prosecution cannot be carried on against said *Heath* until said *Mc. Kercher* comes to this Kingdom.

Sworn the 2d of *February* 1744.

The King  
against  
*Mary Heath*. } *ROBERT KENNEDY* of the  
City of *Dublin* maketh Oath, that on the 27th Day of *January* last he, this Deponent, served *Arthur Weldon*, Esq; with a *Subpœna*, issued out of and under the Seal of this Court, dated the 28th Day of *November* last, by delivering unto the said *Arthur Weldon* at his House in *Rabben* in the *Queen's* County, a Copy of said *Subpœna*, and at same time shewed him the Original and offered him a *British* Shilling in Silver, which he refused to take. By which *Subpœna*, said *Weldon*, and others therein named, were required to be in this Court on *Monday* the 4th Day of *February* then next, between the Hours of *Seven* and *Eight* of the Clock in the Forenoon, to testify on Behalf of his Majesty concerning a certain Perjury, whereof *Mary Heath* stands indicted. And saith, that at the time this Deponent served said *Weldon*, he told Deponent he would most willingly attend in pursuance of said *Subpœna*, but that he was so ill of the Gout, that he could not stand or scarce stir, and that he would not venture his Life; and that the Week before he had the Gout in his Stomach. And saith, said *Weldon* then appeared to this Deponent to be very weak and ill, and was not, as Deponent believes, able to walk one Step, nor was he, as he believes, able to Travel in a Coach or Carriage from his House to *Dublin* without great danger and hazard of his Life; and verily believes, said *Weldon* is not, nor has since been able, without the greatest danger to his Life, to travel in a Carriage or otherwise to *Dublin*; and verily believes, said *Weldon* is a material Witness to be produced on behalf of his Majesty against the Traverser, on the Indictment for Perjury against her; and verily believes the said *Mary Heath* can't be effectually prosecuted upon said Indictment without the Testimony of said *Weldon*; and believes said *Weldon* would readily attend to give Evidence on the Trial of said *Mary Heath*, if he could do it without endangering his Life; and verily believes and doubts not but said *Weldon* will attend to give Evidence on behalf of his Majesty on the Trial of said *Heath*, in Case the Trial be put off to next Term, and that said *Weldon* will be then able to travel with safety to his Life,

Sworn the 6th of *February* 1744.



In order to oppose this Motion, the following Affidavits were sworn on the Part of the Traverfer.

The Traverfer *Mary Heath*, as Page 82

The King  
against  
*Mary Heath*. } **T**HE Traverfer, *MARY HEATH*, maketh Oath, that her Place of abode is in *London* in the Kingdom of *Great Britain*, and Deponent having lived for several Years with *Mary Lady Altham*, Wife of *Arthur* late Lord *Altham*, was prevailed upon to come to this Kingdom in the Month of *October* 1743, in order to be examined as a Witness upon a Trial, that was had at the Bar of the *Exchequer* in this Kingdom in *Michaelmas* Term 1743, between *Campbell Craig*, Lessee of *James Annesley* and the Right Honourable *Richard* Earl of *Anglesey*; and Deponent was examined on said Trial on behalf of said Earl. And saith, that after said Trial was over, Deponent was prevailed upon to continue in this Kingdom, in order to be examined as a Witness on behalf of said Earl in a Cause depending in the *Chancery* in *England* between said *James Annesley* and said Earl of *Anglesey*; and Deponent was examined as a Witness in said Cause in or about *October* last, by Virtue of a Commission from *England*, which was then speeding at *Wexford*; but some time before Deponent was so examined, she was arrested upon a Warrant for Perjury, alledged to be committed by her in her Evidence on said Trial; and the Doors of the House, in which Deponent lodged in *Lattens-court*, *Dublin*, or Liberties thereof, were broke open when Deponent was so arrested by a parcel of *Bailiffs* or *Setters*, some of whom declared they had waited for an Opportunity to find Deponent alone. And when Deponent was so arrested, she was brought from her said Lodgings to *Henry-street*, and from thence towards said *James Annesley's* House or Lodgings in *College-Green*, and in the Road, some of the Persons that arrested Deponent or attended them, directed that Deponent should be brought to *Castle-street*, and Deponent was accordingly brought to a *Tavern* in *Castle-street*, and from thence to a *Publick House*, as Deponent believes it to be, in *Christ-Church-Yard*; where the Person, before whom Deponent was brought, declared, he believed it was not aailable Offence, and several Persons that appeared as *Agents* for said *James Annesley*, seemed to doubt whether Bail could be taken for Deponent; but at length said Person bound Deponent in Recognizance of one Thousand Pounds and each of the Securities in five Hundred Pounds, to the best of Deponent's Remembrance, and bound Deponent to appear at the Sessions of *Kilmainham*, and refused to bind Deponent to appear at any other Place. And Deponent is informed and believes, that there were not any Examinations returned to *Kilmainham* against Deponent, but Deponent was bound over to appear at the Commission of *Oyer* and *Terminer* held in or about *October* last, and was obliged to give Security for Deponent's Appearance there. And deposeth, that Deponent's Business and Affairs requires her Attendance in *London* and her being obliged to stay longer in this Kingdom will be very Inconvenient and Prejudicial to her; and saith, that the at-

tempt to put off Deponent's Trial is made, as she verily believes, with Intent to harrafs and distress Deponent, and the said Earl of *Anglesey* and *Charles Annesley*; and Deponent is informed and verily believes there are at this time in this City at least fourscore Persons that have been *Sub-pœna'd* and brought hither from different Parts of this Kingdom at great Costs and Expences to attend and be examined as Witnesses on behalf of Deponent upon her Trial. Saith, that several of said Witnesses are old and infirm, and believes in her Conscience, that if her Trial should be put off to another Term, several of her most material Witnesses may die; and verily believes, it will not be possible at a future time to get her said Witnesses together, if they are once dispersed or go to their respective Places of abode. And saith, there are two Persons lately dead that were very material Witnesses for Deponent.

Sworn the 6th of *February* 1744.

The King  
against  
*Mary Heath*. } **M**ICHAEL LACY of *Camo-lin* in the County of *Wexford*, Gent. maketh Oath, that he, this Deponent, has been employed by the Right Honourable *Richard* Earl of *Anglesey* in bringing several Witnesses to this City from several Parts of the Country, to give Evidence on behalf of the Traverfer upon her Trial in this Cause; and sayeth, there are now and for some Days past have been in this City upwards of eighty Witnesses, who have been brought from different Parts of this Kingdom, in order to give Testimony on behalf of Defendant on her Trial, many of whom are Persons of Figure and Fortune, and have been brought and kept here at the Expence of said Earl and *Charles Annesley*, Esq; and saith, he hath made the exactest Computation he possibly could of the Expences of bringing said Witnesses and keeping them in this City, and the necessary Expence that must attend their being sent to their respective Places of Abode, and saith, the same, upon the most moderate Computation, will amount at least to *Seven Hundred Pounds*.

Sworn the 6th of *February* 1744.

The King  
against  
*Mary Heath*. } **M**ARK WHYTE of the City of *Dublin*, Gent. one of the Attornies of this Honourable Court, maketh Oath, that he, this Deponent, is employed as *Agent* on behalf of the Traverfer in this Cause, and was so employed by the Right Honourable *Richard* Earl of *Anglesey* and *Charles Annesley*, Esq; and saith, he hath laid out and expended to Lawyers and other necessary Preparations for the Trial of the said Defendant, over and above the expences of Witnesses, Attorney or Agents Fees, or preparing or copying Briefs, the Sum of *Three Hundred Pounds* Sterling and upwards, and also paid a Draft of *Fifty Pounds* *Englisch* Money, which was drawn on Deponent, to defray the Expences of some Witnesses that live and reside in *England*.

Sworn the 6th of *February* 1744.



The King  
against  
Mary Heath. } **E**DMOND BOURK of Collum-  
kill in the County of Kilkenny,  
Farmer, maketh Oath, that since  
the beginning of *December* last  
he, this Deponent, has been employed to serve  
*Subpœnas* to testify and give notices to Witnesses  
to attend and give Evidence on behalf of the  
Traverser, on the Trial, appointed to be this  
Day; and that he attended several of said Wit-  
nesses to *Dublin* for that Purpose: and Deponent  
knows there now are in and about the City of  
*Dublin* upwards of *thirty* Persons, and believes  
there are upwards of *Sixty* Persons attending  
as Witnesses on the Part of the Traverser,  
several of whom are Persons of Distinction  
and Fortune, and have brought with them several  
Servants and other Persons and Horses. And  
faith, he verily believes and is satisfied in his  
Conscience, that *Two Hundred Guineas* will not  
defray the Expences of the Witnesses so in  
Town, their Lodgings, Servants, Horses and o-  
ther Attendants for the space of *Four Days*. And  
faith, he attended the Execution of the Com-  
mission for Examination of Witnesses at *Wexford*  
in the Months of *September* and *October* last past,  
between the Earl of *Anglesey* and *James Annesley*,  
and was himself examined as a Witness on that  
Commission, relative to the Parentage and Birth  
of said *James Annesley*, and the Issue or sup-  
posed Issue of *Arthur* late Lord *Altham* by his  
Lady; and faith, he was credibly informed and  
believes, that *Dean Hughes* late of *Eniscorthy*,  
Gent. and *Henry Giffard* late of *Ros*, Gent. and  
the Revd. *William Hervey* of *Bargybridge*, Clerke,  
were examined on said Commission, on behalf of  
said Earl, and believes said *Dean Hughes* and  
*Henry Giffard* are since dead, and that the said  
Mr. *Hervey* was about *Michaelmas* last taken ill  
and his Life despaired of; and faith, that several  
of said Witnesses now in *Dublin* attending said  
Trial are antient and infirm Persons and live dis-  
persed in several Parts of this Kingdom.

Sworn the 4th of *February* 1744.

The King  
against  
Mary Heath. } **J**OHN CAMPBELL of  
maketh Oath, that on the  
*thirtieth* Day of *January*  
last this Deponent left *Park-*  
*gate*, where he had been waiting for a Wind *Eight*  
Days, and during his stay at *Parkgate* aforesaid,  
he heard nothing of *Daniel Mac Kercher* or Mr.  
*Goostrey's* being there, and believes, if they had  
been there, he could not but have heard of them.  
That Deponent went from *Parkgate* aforesaid, a-  
cross Land to *Holyhead*, where he stayed but *one*  
Night and got his Passage in the *Pacquet*, and ar-  
rived at *Skerries* the *fourth* Instant in the Even-  
ing; and that Deponent heard nothing of them  
at *Holyhead*, and believes they were neither at  
*Parkgate* or *Holyhead* at the time aforesaid.

Sworn the 6th of *February* 1744.

The King  
against  
Mary Heath. } **R**OBERT KENNEDY  
of the City of *Dublin*  
maketh Oath, that he, this De-  
ponent, having received from Mr. *Richard Nel-*  
*son* several *Subpœnas* for Witnesses to appear on  
the *fourth* Day of *February* Instant, to give Evi-  
dence on behalf of his Majesty against the De-

fendant upon her Trial, this Deponent according-  
ly served a great many of said Witnesses with  
said *Subpœnas* respectively in the several Counties  
in this Kingdom, in which they live, and faith,  
a great many of such Witnesses are come to this  
City in order to give Evidence against said *Heath*  
on her Trial.

Sworn the 2d of *February* 1744.

The Matter was debated by Council, and  
great Strefs being laid. by the Council for the  
Prosecutors, on the Affidavit of *Robert Kennedy*  
of the *sixth* of *February*, alledging, that the  
Traverser could not be effectually prosecuted  
without the Testimony of Mr. *Arthur Weldon*; and  
*Kennedy* being represented, by the Council for  
the Traverser, an improper Person to make such an  
Affidavit, by reason of his not being bred to Bu-  
siness, the Court said, if an *Attorney*, or *Agent* in the  
Cause had sworn, Colonel *Weldon* was a material  
Witness, they should have believed him; but not  
easily a Man, who was only a Server of *Subpœnas*; and  
therefore directed him to be call'd and examin'd.

ROBERT KENNEDY.

Mr. Daly.] Do you know Colonel *Arthur Weldon*?

Robert Kennedy.] Yes, I do, Sir.

Q. How do you know that he is a material  
Witness in this Cause? Who told you so?

A. I saw him sworn to what he could say.

Q. Where?

A. Before a Master in *Chancery*.

Q. Have you any other Reason?

A. I have not.

Court.] Did you read his Affidavit?

A. I read his Affidavit, my Lord.

Mr. Daly.] What Affidavit did you read?

A. An Affidavit sworn before a Master in *Chan-*  
*cery* at *Maryborough* Assizes.

Q. Was you present?

A. I was.

Court.] In what Cause was it?

A. In the Cause of *Richard* Earl of *Anglesey*  
and *James Annesley* Esq;

Mr. Daly.] Was there any Cause depending at  
*Maryborough*?

A. No, I went there, and met him there and  
the Master in *Chancery*; Mr. *Morton* was present,  
and his Testimony was wrote; he swore to it and  
I witnessed it.

Court.] In what Cause?

A. They say, it was to be laid before the At-  
torney General of *England*.

Q. Are you used to Business?

A. I am not bred to the Law Business.

Q. Do you understand what is material in a Pro-  
secution for Perjury, and what not?

A. I think, what appeared in that Testimony  
was very material.

Q. Did you shew that Affidavit to any of the  
ents of Mr. *Annesley*?

A. Mr. *Morton* read it.

Q. Did



Q. Did you shew it to any Agent of Mr. Annesley?

A. I brought it to Dublin, and gave it to Mr. Mac Kercher.

Q. Do you know what is material Evidence in a Trial for Perjury, and what is in another Cause?

A. As far as my Reason directs me, I do.

Q. What Employment do you follow?

A. I keep a Beer-house and Shop, my Lord. I do import a great deal of Beer, my Lord.

Mr. Daly.] I'm sorry for it. Are not you a Peruke-maker by Trade?

A. No, I am not.

Q. Did you ever see Mr. Weldon before that Day you saw him at Maryborough?

A. I did.

Q. Where?

A. In Dublin, often.

The Council for the Prosecutor said, they could satisfy the Court, that Mr. Weldon was examined *De Bene esse* in the Court of Chancery; and debated the Matter further. After which, the Council for the Traverser informed the Court, that they had an Affidavit made by Captain Levingstone, who, in order to have Colonel Arthur Weldon examined as a Witness *De Bene esse*, swore on the eleventh of November last, that he was in such a bad State of Health, that they might lose the Benefit of his Testimony; and yet, that Mr. Mac Kercher swore two Days after, that they were ready to go to Trial without him. The Council for the Prosecutor opposed the reading of this Affidavit; but the Court over-ruling them, the Affidavit of Mr. Arthur Magwire, proving a true Copy of Mr. Levingstone's Affidavit, was first read, as follows.

The King }  
against }  
Mary Heath. }  
ARTHUR MAGWIRE of the City of Dublin, Gent. came this Day before me and made Oath, that he compared the above Copy of an Affidavit with the Original Affidavit in the Usher's Office of his Majesty's High Court of Chancery in Ireland, and faith, the same is a true Copy, and that he saw Hugh Swiney, the Clerk in the said Office, sign the name Ste: Sibthorp, Usher, thereto, and faith, the said Hugh Swiney, usually attests Copies of Affidavits, and believes he has a Power so to do.

Sworn this 7th of February 1744.

James Annesley Esq; }  
Plaintiff. }  
Richard Annesley }  
called Earl of An- }  
glessey and others }  
Defendants. }  
WILLIAM LEVINGSTONE, Esq; came this Day before me and made Oath, that on Sunday the eleventh Day of this Instant November, this Deponent saw Arthur Weldon, Esq; at his House in the Queen's County, and that the said Arthur Weldon was then in a weak State of Body, insomuch that he then seemed to Deponent to be in danger of dying, and this Deponent faith, the said Arthur Weldon is a very material Witness on behalf of the Plaintiff James Annesley in this Cause, and Deponent

faith, if the said Arthur Weldon be not shortly examined in this Cause, the Plaintiff will in all Probability lose the Benefit of his Testimony.

Sworn before me this 21st Day of November 1744.

William Levingstone,

THOMAS STOPFORD.

True Copy.  
Ex. by Bowden.

STE. SIBTHORP, USHER.

The Matter was then argued further by the Council for the Prosecutor, after which, the Court delivered their Opinion, as follows.

Mr. JUSTICE BLENNERHASSET.

THE Prosecutor has moved on two Affidavits to put off this Trial till next Term.

On Monday last he moved to postpone the Trial till Friday, which Motion was granted.

The Affidavits now moved on are, one of Kennedy an Ale-Seller and a server of Processies.

And the Affidavit of Mr. Nelson, who is the Agent and Attorney for the Prosecutor.

The Strength of Kennedy's Affidavit consists in this, that, one Mr. Weldon is a material Evidence.

I must observe, that upon the Motion to postpone the Trial till Friday only, there was no Affidavit made concerning Mr. Weldon, for Kennedy's Affidavit, in which only Mr. Weldon's Name is mention'd, appears to have been sworn Yesterday.

There was an Affidavit of Mr. Mac Kercher's, which he made the last Term, in Opposition to the Motion to put off the Trial then made by the Traverser.

This Affidavit has been this Day read.

There Mr. Mac Kercher swears that he had a great number of Witnesses attending and that he was ready to Prosecute.

At this time Mr. Weldon was not thought of, he has been summoned since, but to this hour he is not bound over to Prosecute.

Nor was he examin'd on the Trial in the Court of Exchequer.

Now, as to the Affidavit of Kennedy, tho' it has all the Parts which generally make up Affidavits to put off Trials; for he Swears to the summoning of Mr. Weldon, and to his being a material Witness, and that he was not Well when he was summoned, yet he goes, in my Opinion, so far, that he can't well receive Credit.

For he takes upon him to Swear also, that the Traverser can't be convicted without his Testimony.

So that Mr. Weldon is the only Person who can give Evidence to convict this Woman, if we believe Kennedy.

But, if we believe Mr. Mac Kercher, he Swears he had a number of Witnesses ready to prosecute the Traverser to Conviction, the Term before Mr. Weldon was thought of.

As



As to Mr. *Nelson's* Affidavit, it relates to Mr. *Goostery* only, that he has given Examinations in this Cause and that he is in *England*, and to Mr. *Mac Kercher*.

I need not remark on this Affidavit, it is made by a Man of Credit in his Profession, and I believe it to be true.

But the Force of this Affidavit is taken away by an Offer made by the Traverser, who says, she will consent to have *Goostery's* Examination read in Evidence against her upon the Trial, and that she will wave any Benefit which she might have by a Cross Examination.

As to that Part of Mr. *Nelson's* Affidavit which is relative to Mr. *Mac Kercher*, it has no Weight with me; he says Mr. *Mac Kercher* is absent, and is a Manager in this Cause, he does not say he is a Witness, so that there is no Pretence to put off the Trial on that Account.

But the Council for the Prosecutor object that there is no Equality kept, if this Trial be not put off, say they,

The Traverser put it off last Term, and we should have the same Indulgence now.

The Case on the Traversers Motion widely differs from the Case made by the Prosecutor on this Motion.

The Bill of Indictment was not found till the *Twenty fourth* Day of *October* at the Commission of *Oyer and Terminer*.

The Traverser afterwards obtain'd a *Certiorari* to remove it to the King's-Bench, which was not returnable till the first of Term. She then appear'd and immediately inform'd the Prosecutor, that she could not be ready for her Trial; she afterwards moved on Affidavits to put it off, and suggested that a Number of Witnesses were in *England*, and many dispersed in remote Parts of this Kingdom; she named many of them by Name; she swore they were material and that it was not possible to have them that Term, but that she hoped to have them by this.

Upon these Affidavits, the Trial was put off and a Day of Trial appointed for this Term.

The Prosecutors opposed this warmly, made Affidavits that they were ready to prosecute, that their Witnesses were all in Town at great Expence to them, and they do not say now, by any thing they have Sworn, but that they have every Witness now, which they then had except *Goostery*.

This was sufficient Notice to them to be prepared, they were not hurried as the Traverser must have been, if her Trial had been brought on before she could, from the Circumstance of her Case, have been prepared.

The Court, in my Opinion, should consider the prodigious Expence the Party is put to; I think it is sworn that no less than fourscore Witnesses are now attending to give their Evidence in behalf of the Traverser, and that the preparing for this Trial has cost her already above seven hundred Pounds.

I consider also the heavy Imputation which lies on her Character, which she ought to have an Opportunity of clearing up, if she can.

And for these Reasons think she ought to have her Trial; but I submit to the Opinion of the Lord Chief Justice and Mr. Justice *Ward*.

Mr. JUSTICE WARD.

THE Progress of this Cause is easily recollected. The Bill of Indictment was found the *twenty fourth* of *October* at the Commission of *Oyer and Terminer* for the County of *Dublin*, against the Traverser for wilfull and corrupt Perjury; notwithstanding which, and altho' the Verdict in the *Exchequer* was contrary to her Evidence, I shall suspend my Opinion until the present Jury have found her Guilty or acquitted her. Justice and the publick Good require, that Witnesses upon their Oaths should always speak Truth, yet I am apt to believe, were not private Persons affected in the Event of this Prosecution, every Circumstance, whether material or not, would not be so strenuously contended for.

Many Reasons made it improper to try this Indictment at the Commission; therefore my Lord Chief Justice granted a *Certiorari* to remove it into this Court; it is owing to that I see many Gentlemen upon this Jury, who could not have been so there, being Judges; it was fit the best Gentlemen for Fortune and Character in the County should be had to try a Cause of this Consequence, it was incumbent on the Sheriff to return such, and I believe he hath done his Duty.

The *Seventh* of *November*, the Traverser call'd upon her Recognisance, appeared, and the Court appointed the *Fourteenth* for her Trial; but on the *Tenth* she moved the Court to put it off to this Term, on her Affidavit of several material Witnesses, naming them, being in several Parts of *England*, and remote Parts in *Ireland*, whom she could not possibly have in Time to make her Defence. This Motion was strongly opposed, but her Affidavit was so full, that it could not be refused her, and I must say, that in a common Case it would have required no longer Time then to read the Affidavit, and the Court appointed the *Fourth* of *February* for the Trial. On this Motion Mr. *Mac Kercher* made an Affidavit, which now is become necessary to be considered; he swears that he is embarked in this Cause, and, as I understand him, an Agent; that he was then ready to Prosecute and go on with the Trial of the Traverser. As it was obvious to Object, if he was then ready, why should he not be so this Term; to answer which, he goes on, and swears, that several Persons interested and Witnesses were going to *England*, whom he apprehended he could not have next Term, and could not bring on the Trial without them; this looks like giving Notice he could not be ready this Term, and I confess if he, or the visible Agent on this Side the Water had applied the beginning of Term, and made the Necessity of their Witnesses going to *England* appear, and that they were not returned, and if the Traverser had been at no Expence, I should have gone as far as the practice of the Court would allow to delay the Trial. But instead of this, Mr. *Mac Kercher*, in his Affidavit, did not mention the Name of any one of his Witnesses that were going to *England*, which



which renders it impossible to examine whether they did or did not go there, or were since returned, or ever would; besides, they seem'd to acquiesce and continued silent until the *Second of February*, when Notice was given, the Prosecutors would move on the *Fourth* to put off the Trial to *Friday* following. No other Notice hath been since given; nor did the Prosecutors move to put off the Trial on *Monday*, until the Jury was called, and only *Eight* appearing, it must go off on course to the next Day, on which, they only pressed that it should be put off to *Friday*, without assigning any Reason from Mr. *Weldon's* Disability to attend, or indeed, any Reason at all that I know of. However, through much Importunity, the Council on both Sides agreed to put it off to this Day, when a full Jury appearing, they now move on new Affidavits to put it off to next Term, and assign for Reasons the Absence of Mr. *Mac Kercher* the Agent, and also of Mr. *Goostrey* and Colonel *Weldon* two Witnesses; as to Mr. *Mac Kercher*, he was here last Term, and might have been here now, for tho' Mr. *Nelson* swears, he acquainted him by Letter that he would be here, yet *Campbell* swears he came last Week from *Park-Gate* and *Holy-Head*, and heard nothing of Mr. *Mac Kercher* at those Places; besides, Mr. *Nelson* has always appeared to us as the known Agent, and is of known Abilities and Sufficiency to conduct any Cause. As to Mr. *Goostrey*, the Council for the Prosecutors say he was here last Term about the End of it, when *Edward Weedon* and his Brother, being examined in Court, charged him on Oath with drawing Affidavits for them, being illiterate, to swear to their Mother *Sarah Weedon's* imprisonment by Colonel *Blakeney*, when they only told him, as they, with great simplicity, swore in Court, that Mr. *Blakeney's* Gates were lock'd at the usual Hour of the Night, and they never look'd on their Mother as a Prisoner there, and when the Court required Mr. *Goostrey's* Attendance, they were told he was then in *England*; he is bound over to prosecute and ought to have attended: However, the Traverser hath absolutely removed this Objection by consenting his Examinations should be read against her. But the main Objection rests upon Colonel *Weldon's* Absence, who, as *Kennedy* swears, was served with a *Subpœna* the *Twenty Seventh of February*, and was then so ill of the Gout, that he could not attend, and that the Traverser can't be convicted without him. *Kennedy* appearing in Court, acknowledged himself to be a Beer-seller, and, by his Appearance, he is a Man of low Station and little Knowledge, I think him very sufficient to swear to what he sees and hears, but I must say I don't think his Judgment or Belief any way sufficient to ground mine on. An Attorney or Agent is the proper Person to swear a Witness to be a Material one to convict the Traverser, but the Agent and Attorney, who certainly must be informed of the Witnesses for their Clients, have declined this. *Kennedy*, indeed, told us on the Table, he read an Affidavit of Colonel *Weldon's* at *Maryborough*, and thought it material; but to obviate this, the Traverser's Council have consented this Affidavit be read in Evidence against her, so that if it be material, it will have its Weight. In the next Place, how comes Colonel *Weldon* to be now

so material a Witness, when last Term Mr. *Mac Kercher* pressed to go on to Trial without him, and I presume he knew what he could say, the Affidavit he made being I think at the *Summer Assizes* preceding.

Besides, tho' Colonel *Weldon* was *Subpœna'd* the *Twenty Seventh of January*, and *Kennedy* made an Affidavit the *Second of February*, in that he is silent as to Mr. *Weldon's* Illness, nor was it mention'd by the Council on *Monday*, but when nothing else would do, on the *Sixth of February* he swears to his Illness, and something like his being a material Witness; this I have considered already: But I must observe, what has misfed the Council, that tho' Colonel *Weldon* should be ill of the Gout on the *Twenty Seventh of January*, it no ways appears but he may be now on the *Seventh of February* well recovered, or at least able to Travel; 'tis admitted he lives but one Day's Journey from *Dublin*, why then was not a Messenger sent down to bring us an Account in what state of Health he was a Day or two past; since they have neglected this, I shall not look upon him as a necessary Witness. The Council for the Prosecutors alledge they have above *Sixty* Witnesses, and the Traverser's *Eighty* in Town; I think it is full Time to go on with the Trial, and I see no Reason for putting it off. I should not have been so tedious, but for the great earnestness, with which the Council have press'd this Motion.

LORD CHIEF JUSTICE MARLAY.

I AM of their Opinion that we must not put off this Tryal. I will mention the several Steps taken in this Proceeding. It appears here by Affidavit, that on the *Tenth of August* Mrs. *Heath* was arrested on a Warrant, grounded upon Examinations of Perjury committed by her in her Evidence on the Trial in the Court of Exchequer; fifteen Witnesses are first bound over to prosecute at the Sessions of *Kilmainham*, and afterwards at the Commission of Oyer and Terminer. The Commission sat on the *Twenty-third of October*, and a bill of Indictment was found against her the next Day, which she traversed, and the Traverser moved for a *Certiorari* to take her Trial in the *King's Bench*, upon Affidavits so full, that it was not to be refused without the greatest Injustice; there being an Estate depending of *Six Thousand Pounds a Year*, and that there were Examinations carrying on in the Chancery here, and in *England*. I do believe that neither Side can shew, where the Testimony of Witnesses has been anticipated by an Indictment of Perjury, but something like that Step was taken in this Cause. The *Certiorari* was granted by the Court upon an Affidavit of the Traverser, and the Trial put off upon her Affidavit of the *Tenth of November*. The Affidavit of Mr. *Mc. Kercher* is sworn afterwards on the *Thirteenth of November*, shewing Cause for bringing on the Trial the next Day, but no Court could possibly bring on the Trial when that Affidavit was offered. The Traverser swore that several Witnesses, whom she named, were in *England*; and that Mrs. *Weedon* in particular was a material Witness.



ness and lived in a remote Part of this Kingdom. Mr. *Mc. Kercher* swears that Mrs. *Weedon* was a material Evidence for the Prosecutor, that she was detained by Force and moved for an *Habeas Corpus* to bring her hither. That Motion was brought on and Examinations were taken after the Day appointed for the Trial, and a Motion made to attach Mr. *Blakeney* for detaining this Mrs. *Weedon*. It appeared, that she was summoned to attend here on Behalf of the Prosecutor on the *Fourteenth* of *November*, just the Day before, and that the Place she then lived at is above *Seventy* Miles from *Dublin*. There came two Witnesses upon the Table, who had sworn Affidavits in Order to found an *Habeas Corpus* and an Attachment against Mr. *Blakeney*, and they having sworn false, they were both committed. Both those illiterate Witnesses swore her, in their Affidavits, to be under a Restraint, when it appear'd she was at Liberty. This they confessed, and also, that those Affidavits were prepared by *Goofrey*, the Person now said to be in *England*. This is a very extraordinary Proceeding, and a Sort of Indictment not usually brought into this Court. The first Trial was put off, on the Affidavit of the Traverser, that she was not prepared for her Defence: The Question now is, whether the Reasons offered for putting off this Trial to *Easter Term* be of equal Force. It appeared then by the Affidavit of Mrs. *Heath*, that several Witnesses, necessary for her Defence, could not possibly attend at the Day prefixed for Trial; the Bill of Indictment was found the *Twenty-fourth* of *October*; the Trial was to be on the *Fourteenth* of *November*; how could Witnesses in *England* be brought by that Time to appear here? But Mr. *Mc. Kercher* swears that Mrs. *Weedon* was a material Evidence for the Prosecutor, and not for the Traverser, as she insinuated. She's now here, you have no Want of her, if she be that material Witness; and then the Question is whether the Affidavits made now can put off this Trial. The Affidavit of Mr. *Nelson* is general, and only says, that he had a Letter from Mr. *Mc. Kercher*, dated the *Tenth* of *January*, acquainting him that he would leave *London* on the *Seventeenth* of that Month. There are several Affidavits made on the Side of the Traverser, and one in particular, that there was no such Person upon the Road from *London* to this Place; but however, as he is no Evidence in the Cause, there can be no Colour for his Absence to put off the Trial. Then the whole Matter is reduced to the Affidavit of *Kennedy*. He swears those three Things that are material to put off a Trial; but I must observe that this Affidavit is in Fact contradicted by the Affidavit of Mr. *Mc. Kercher*, who swears on the *Thirteenth* of *November*, he was ready to bring on the Trial the next Day, and yet Mr. *Weldon* is not one of the Witnesses for that Trial, and he is not bound over to prosecute; Mr. *Mc. Kercher* knew his Evidence, for he had then his Affidavit in Chancery; therefore that Part, which is necessary to put off the Trial, that a material Witness to be produced, cannot attend, is want-

ing in *Kennedy's* Affidavit, for it appears that it is not well grounded by Mr. *Kercher's* Affidavit. There's another Objection against *Kennedy's* Affidavit. He swears, he does believe Mr. *Weldon* is to be had the next Term, and that he believes he is a material Witness. Consider, that though this be proper, if it comes from the Agent, yet it is not proper, when an Ale-seller makes this Affidavit, and a Man that confesses he was never bred to Business. You know, that if a Person be accused for a violent Assault, in Case there be no danger of Death, there is Bail taken; but if instead of sending for a Surgeon, the Person who applies for Bail, sends for a Cobbler, and the Cobbler swears he had searched the Wound and found it not dangerous, no body can say, but the Court would refuse Bail upon the Affidavit of this Cobbler. Therefore *Kennedy's* Affidavit is of no Consequence. As to *Goofrey*, his Examinations are here, the Council for the Traverser desire they may be read against her. But I must tell you, that his Examinations are no more, than that Mrs. *Heath* did say such and such Words on the Trial in the *Exchequer*. I have the Trial here, and Mr. *Goofrey* can prove no more than what all present at that Trial can prove; and therefore, Gentlemen, upon Account of Mr. *Goofrey*, I think not proper to put off the Trial. But what makes me think it improper to put it off is, the great Expence on the side of the Traverser. It appears by the Affidavits on account of the Traverser, that they have been at a vast Expence, one Person swears to 700 *l.* another swears to 300 *l.* besides a 50 *l.* Bill. Now, if you can delay Trials, and put Traversers to this Expence, you'll soon have what you desire in carrying on this Cause, for no Body will dare to appear a Witness, when they know it is so dangerous and expensive. But, it has been urged by Mr. *Harward*, that she should have a full and fair Trial, and let me tell you, it is as much for the Credit of the Prosecutors, that there should be a full and fair Prosecution, and that where Witnesses bound over, may be had to appear, and do not, it creates a suspicion of the Justice of the Prosecution; People will be apt to say, that Juglers cannot play so well the same Trick twice. There is no doubt but a Verdict was found for the Prosecutor by a Jury of undoubted Credit; but it does not follow that the Traverser is guilty, and the best and the wisest Jury may be deceived. This matter can be delayed no longer, because by this Delay there can never be any Time fixed for a Trial; but as it is now late, we will defer it till to morrow Morning.

The Jury prefixed over to *Friday* the 8th of *February* at Eight o'Clock.

Mr. Serj. Marshall.] I beg leave to observe that the Examination of Mr. *Goofrey* does not go to all parts of this Indictment.

Court.] To every one of them.

Court.] You do in Effect confess her Innocent if you don't prosecute her.



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